

His Majesty's
X
A N S W E R
TO A PRINTED BOOK,
INTITULED,
OBSERVATIONS
UPON SOME OF
HIS
MAIESTIES
L A T E A N S W E R S
and Expresses.

Printed by His MAIESTIES Command
AT OXFORD. *Nov 20*
By LEONARD LICHFIELD,
Printer to the Vniversity. 1642.

NEW
A. N. W. E. R.
TO A PRINTED BOOK
INTITLED,
OBSERVATIONS
UPON SOME OF
HIS
MAJESTIES

EDWARD VI.
and Elizabeth.

Printed by H. M. A. R. C. C. Command

OXFORD

Printed by H. M. A. R. C. C. Command
to the Hon. Secy. of State.



AN ANSWER
TO A PRINTED BOOKE,
INTITULED,
OBSERVATIONS
Vpon some of His MAIESTIES late
Answers and Expresses.

IN this discourse concerning Regall authority, it is needlesse to wast time in declaring the originall; since it is granted to be at least mediately from God. Who intending the good of mankind, which was not to be obtained without preservation of order, hath therefore commanded all to be subject to the lawes of society, not only for wrath, but for conscience sake: not only whil'st they en-

joy the benefit of Governours, but likewise whilst they doe suffer under some accidentall abules. The reason of which obligation may be this: we cannot reap the constant fruits of an established policy, unlesse by compact we submit our selves to some possible inconveniences.

Hence it follows, after a people hath by solemne contract devested it selfe of that power, which was primarily in them, they cannot upon what pretence soever, without manifest breach of divine ordinance, and violation of publique faith, resume that authority, which they have placed in another; to the end that being united in one, it may thence receive strength, & be enabled to protect all, as also to prevent those fatall divisions which attend multitudes endued with equall power, where almost every one upon reall or fancied injuries undertakes to right himselfe, and although before positive constitution this is not absolutely unjust, yet reason informes us it is most fit by some agreement to part with this native right in consideration of greater good, and prevention of greater evils which will ensue, and to restraine our selves from being judges in our own cause.

It followes moreover, though the people should

conceave they might live more happily, if the Kings prerogative were more bounded, his revenues diminished (and it is no hard matter to persuade them to think so, to effect this, wants not so much rhetorique, as malice, since what is taken from the King, turnes to their present profit, though they oft-times dearely pay for it, by disabling their King to provide for their security) it were high sinne to entrench upon his rights. For hereby they loosen the very sinewes of government, by receding from that compact, which crafty men (out of their own private interests) persuade them they might have made more advantageous.

It doth no way prejudice Regall authority, that *God is the author of Aristocraticall*, he may adde Democraticall power also. If these were not lawfull formes of government, their execution of judgement would be sinne, and whilst they punish, they would commit murder. Yet in these kindes, we may observe more or lesse perfection, according to the aptnes they beare to those ends which States ayme at, which are safety and plenty. To have riches, and not be able to defend them, is to expose our selves as a prey; to be safe, and poore, is to be securely miserable. Besides, if we had leisure

joy the benefit of Governours, but likewise whilst they doe suffer under some accidentall abules. The reason of which obligation may be this: we cannot reap the constant fruits of an established policy, unlesse by compact we submit our selves to some possible inconveniences.

Hence it follows, after a people hath by solemne contract devested it selfe of that power, which was primarily in them, they cannot upon what pretence soever, without manifest breach of divine ordinance, and violation of publique faith, resume that authority, which they have placed in another; to the end that being united in one, it may thence receive strength, & be enabled to protect all, as also to prevent those fatall divisions which attend multitudes endued with equall power, where almost every one upon reall or fancied injuries undertakes to right himselfe, and although before positive constitution this is not absolutely unjust, yet reason informes us it is most fit by some agreement to part with this native right in consideration of greater good, and prevention of greater evils which will ensue, and to restraine our selves from being judges in our own cause.

It followes moreover, though the people should

conceave they might live more happily, if the Kings prerogative were more bounded, his revenues diminished (and it is no hard matter to persuade them to think so, to effect this, wants not so much rhetorique, as malice, since what is taken from the King, turnes to their present profit, though they oft-times dearly pay for it, by disabling their King to provide for their security) it were high sinne to entrench upon his rights. For hereby they loosen the very sinewes of government, by receding from that compact, which crafty men (out of their own private interests) persuade them they might have made more advantageous.

It doth no way prejudice Regall authority, that *God is the author of Aristocraticall*, he may adde Democraticall power also. If these were not lawfull formes of government, their execution of judgement would be sinne, and whilst they punish, they would commit murder. Yet in these kindes, we may observe more or lesse perfection, according to the aptnes they beare to those ends which States ayme at, which are safety and plenty. To have riches, and not be able to defend them, is to expose our selves as a prey; to be safe, and poore, is to be securely miserable. Besides, if we had leisure

to look back to the Originall of Governments, we might finde that God was the immediate donor of Regall power, whereas other formes referre to him, onely as confirming the peoples Act. This the Author cunningly dissembles, and therefore (treading in the steps of *Mariana* and *Buchanan*, sworn enemies to Monarchy) he presents us with I know not what rude multitudes, living without lawes, without government, till such time, as out of the sense of their sufferings, which evidently proceeded from this want, they were inforced to fly to such remedies. However this fancy might passe for currant among such heathen Politicians as were ignorant of the originall of the world, & dreamed that the first men were bred as Insects, out of the mud of the earth: whence that frequent mention in their writings of *αὐτοχθόνες*, and *Aborigenes*; yet we, who are satisfied with the history of the creation, cannot imagine, that Anarchy was before a regulated Government, and that God who had digested one *Chaos* into order, should leave the most noble creatures in a worse confusion: unlesse we will deny to *Adam*, either that power or providence, which is naturall and ordinary in a father over his children; and granted by this observer, pag. 18. to be more then the King can challenge

challenge over his people. We find in this infancy of the world, upon the multiplying of mankind, Colonies were sent out, and a City was built by *Cain*. Those long-lived Patriarchs had this advantage, by begetting a numerous posterity, they might people a Nation out of their own loyns, and be saluted *Patres patriæ* without a metaphor; the same being their subjects and their children. In relation to this, it was properly said by the Ancients, a Kingdome was but a larger family; *Aristotle* tells us, a Regall power belonged to the *Paterfamilias*, and accordingly *Homer*

Αὐτὰρ ἐπεὶ δὴν ὄνκιο ἄνδρ' ἔσσι' ἡμετέροιο.

I. i. pol. c.

8.

Odyss.

So that it was then no more possible in right for such a people to choole their rulers, then to choole their Fathers. Thus Regall power sprang first from Paternall, and *Tragus* made a truer observation then this author, when he said, *Principio rerum* (as well as *gentium, nationumq;*) *imperium penes reges erat*. And therefore may challenge more from God, & nature, then other formes of government; and certainly it hath received larger elogies from God in Scripture, then any other can pretend to. To say nothing of the Kings of Israel, who are confest by the adversary to be of divine institution; very heathen Monarchs are acknowledged by

by God himselfe to be no lesse. Where he calls *Nebuchadrezzar* his servant. *Ier.* 43. 10. and *Cyrus* his annointed. *Ez.* 45. 1. Notwithstanding this, to the end I may give the clearest satisfaction, I have thought it fit not to take advantage from the excellency of Monarchy, whether in regard to its antiquity (as being not much younger then man himselfe) or the severall commodities thereof. For the truth is, it were no excuse for such endeavours of innovation, were it the most imperfect government.

I shall therefore take into consideration this Authors grounds in the method they lye, upon which he would overthrow so ancient and well founded a monarchy.

His first exception is; *The King attributeth the originall of his Royalty to God and the Law, making no mention of the grant, consent, or trust of man therein.*] A groundles cavill; whē God is first named, under what notion can he apprehend *Law*, but as an agreement of the people, deriving their power, and committing the Kingdom to his trust? within few lines he confutes himselfe, telling us, *that Law which the King mentioneth, is not to be understood, to be any speciall ordinance sent from heaven by the ministry of Angels, or Propbets, (as amongst the Jewes it some-*
times

times was) It can be nothing else amongst Christians but the pactions and agreements of such and such politique corporations] if so, he might have spared this observation.

That Dominion which is usurped, and not just, yet whilst it remaines dominion, and till it be legally againe devested, refers to God, as to it's author, and donor, as much as that, which is hereditary.] Usurpation & unjust dominion can give no right to the possessor; he that looses a kingdome by force may recover it by the same title. So *Athalia* in the seventh yeare of her raigne was flaine by the command of *Iehoiada*, and *Joash*, anointed King, and restored to his right. He must againe answer him selfe. pag. 3. he tells us, Neither can the right of conquest be pleaded to acquit Princes &c. for meere force cannot alter the course of nature, or frustrate the tenour of law; and if it could, there were more reason why the people might justifie force to regaine due liberty, then the Prince might to subvert the same. And 'tis a shamefull stupidity in any man to think, that our Ancestors did not fight more nobly for their free customes and lawes, of which the conquerour and his successors had in part disinherited them by violence and perjury, then they which put them to such conflicts. Is it not a cleare contradiction to lay that God is the author, and Do-

2. King. 11

nor of Dominion usurped, and not just, as well as of that which is hereditary? Certainly God being Lord Proprietary of all, his donation transfers a full right to him on whom he bestowes it. This deed of gift being knowne, it is not lawfull to endeavour a recovery. This was the case of *Reboboam*, who after the defection of ten tribes, raised an army out of *Judab*, and the tribe of *Benjamin*, in hopes to reduce them to obedience. But he was warned by *Shemajah* the man of God, not to fight against his brethren (not because it was unlawfull in it selfe, or the successe improbable, but for that this was from the Lord. As this was not, (setting aside that extraordinary consideration) unlawfull; So neither was it, as he is pleased to terme it, *a ridiculous attempt, to endeavour to reduce ten tribes by the strength of two*. For he had raised an army consisting of one hundred and fourescore thousand chosen men, which were warriors. And it may probably be collected from the muster roll, which *Ioab* brought in to *David*, where the men of *Judab* were 500000, that those two tribes were able to furnish an army strong enough to bid all *Israell* bartell. Besides as he had lost them only by harsh language, so he might hope to regain them, by faire promises. It may be not unworthy

2. K^{ings}. 12.

1. 22.

2. Sam. 24.
9.

unworthy our observation, what good consequences did attend the defection of these ten tribes. Did they not presently fall away from the true God, as well as their King, and were they not shortly after led into captivity?

This we must observe, though force be not law, yet if after conquest a people resigne their right in part or in whole, by a subsequent act of consent, they are obliged to stand to those conditions, which they made perchance out of a probable feare of harder usage. For the law of God generally, and the civill law in this case makes the Act binding. That covenants should not be violated, *L. si malit. D. quod me t. cau.* will appeare by the revenge God took in behalfe of the *Gibeonites*. The children of *Israell* suffered three yeares famine, and after this seven of *Sauls* sonnes were hanged to make an atonement for this breach of promise. Notwithstanding the *Gibeonites* had overreached the Children of *Israell* by craft, yet they having sworne, were bound to performe their oath unto the Lord. *Doli exceptio* could not take of this obligation. That they were deceived, gave no right to them to imitate what they condemned, and to deceive againe. Thus we see what speciall care God takes to preserve the faith of contracts. He will returne abundantly,

B 2

what

what any mans honesty costs him; and therefore it is great reason, he that sweareth to his neighbour, should not disappoint him, though it be to his own hindrance.

After some generall truths, he comes to this issue. *The fountaine and efficient cause of power is the people, and from hence the inference is just, the King though he be singulis major, yet he is universis minor.*] This inference most weak: the quite contrary may clearly be concluded: The people being the efficient cause of power (which can be no other way but by deriving their divided power, and uniting it in him) since they cannot retaine what they have parted with, nor have, what they gave away, it follows he which hath all their power (I may adde his own particular besides) must needs be greater and more powerful then they. The truth is, he is now the only fountaine of all power and justice.

But he offers us a prooffe; for *if the people be the true efficient cause of power, it is a rule in nature; Quicquid efficit tale, est magis tale.*] Strange that men upon such palpable sophistry should endeavour to cast off Monarchy! He will be unwilling to follow the consequence of it. He hath an estate, which no question he would willingly im-

prove, let him bestow it upon me, he will make
 me rich, and himselfe richer. For *Quicquid efficit
 tale, est magis tale*. I believe rather then part with
 his meanes, he will finde an answer to his own
 argument. By the same reason one that entreth
 into his service, because he hath made him his
 master, shall conclude himselfe the better man,
 and challenge power over him. For *Quicquid ef-
 ficat tale, est magis tale*. But because to prove his
 reasoning absurd, is not fully to answer, I will
 shew the ground of this fallacy. The axiome is
 true *ante effectum productum*, not alwaies after. So
 a sparke firing a City, was once, more fire then
 the houses, nor so after the whole towne is be-
 come one flame: or else thus, it is true in those a-
 gents, in whom the quality by which they operate
 is inherent, and from whom it cannot be sepe-
 rated: not true in those who by way of donation de-
 vest themselves of power or wealth. Because a
 thing cannot retaine a fullnesse, after it hath emp-
 tied it selfe. *adgit illoque yd bludstrowoqemil*
vd If the King be *universis minor*, then the people
 have placed a King not over, but under them; and
 they doe sit to petition when they might com-
 mand; they may require it from the Prince their
 Subject. *badt iugit iugit iugit iugit iugit iugit*
vilidit iugit

*Hence it appeares that at the founding of authori-
ties, when the consent of societies conveys rule into such
and such hands, it may ordain what conditions, and
prefix what bounds it pleases.]* This is most true; and
therefore I shall easily grant, the name King to
signifie a person invested with different power ac-
cording to the varietie of lawes in severall nations.
His Majesty doth most freely acknowledge, and
will constantly maintain whatever rights the law
doth give us; yet He is not bound to betray his
own. The truth is, we should be equally misera-
ble under either extreme, if the Kings prerogative
should swallow up the Subjects right, or the Sub-
jects right the Kings just prerogative.

*No dissolution ought to be of rule conveyed by the
consent of societys, into such and such hands, but by
the same power by which it had it's constitution.]* This
I grant, being rightly understood; but because the
sense may be easily mistaken, I shall enlarge my
selfe upon it. It is most agreeable to reason, that the
same power should by equall right, abrogate, as
it did at first constitute. For it is not possible any
body should lay a necessary obligation upon it
selfe to doe thus, when it had liberty to doe other-
wise, except in relation to some other person; to
whom I may part with that right I had, without
possibility

possibility of recalling it. And this either by actual donation, so when I have given away my money, J cannot challenge it as due on my repentance; or by promise, which is an earnest of my performance. In these cases J cannot use my liberty, because it would be to the injury of another; according to that rule grounded on great equity, *Nemo potest mutare consilium suum in alterius injuriam.*

*L nemo D.
de reg. jur.*

In a popular state there is but one simple power, and therefore the people upon consent may establish an Aristocracy, or Monarchy, when they please. But in the other two, where the authority is placed in the hands of a few, or of one, there are two parties in the contract, and therefore even the whole people have not any power of dissolving this government, unlessse this one, or those few, will voluntarily resigne up their power into those hands from which they received it; and that such resignation be not to the injury of a third party.

It were strange if the people in subjecting it selfe to command should aime at anything but it's own good in the first and last place.] No question, rule and subjection (divided paternall powers finding it necessary to yeeld to one Regall, and instead of ma-

ny, to submit to one common father) did spring from reason directing man-kind to its greatest convenience. Therefore the people, ayming chiefly at their own good, yet perceiving this was not to be attained, except they had a common protector to administer justice equally amongst them, they found it necessary in a higher degree to provide for his good, in recompense of their security, and out of their particular estates, to grant to him honourable demaines, to whose care and justice, they owed the peaceable possession of all. So the good of either is mutually involved, and that the people may be happy, they must first provide for the happinesse of their ruler.

What followes I shall think unworthy any answer. He breaks out into a most scandalous, and false invective against the late government. That the subject groaned under some grievances, cannot be denied; and we owe to the goodnesse of his Majestie, that we are free even from the feare of them for the future. I speak sincerely, what I think, though the wit of malice should set before us the most exact table of all our sufferings, (let it not impose upon us, what we never felt) and compare us to any other nation of the Christian world, we in our worst times were least unhap-

py. Because we have no reason to be in love with any evils, I shall not endeavour to excuse them by comparison with our present miseries. Though neither be desirable, yet we are too sensible, which we have justest reason to complain of.

I hope under this word (protect) the King intends not onely to shield us from all kinde of evil, but to promote us also, to all kinde of Politicall happinesse, according to his utmost devayre. I never before did apprehend in the word, *Protect*, this large notion; we may expect all happinesse from His goodnesse, we cannot challenge it from His duty. How should we conceive, that the Prince is obliged by oath to take care for his people in such a degree, as the most affectionate mother never yet took for her dearest children. If it were so, then all his Majesties Royall ancestors, who did not provide for their people in such a high degree of happinesse, as he by the advise of this present Parliament hath done, were perjured, as having all taken the oath to *Protect*. Every particular subject hath a just title, and may challenge an interest in whatsoever is meant by the word, *Protection*: Is the King therefore bound to promote every particular person to all kinds of politicall happinesse? to advance all to honours, offices, power, command?

Though all single persons ought to look upon the late Bills passed by the King as matters of Grace, with all thankfullness and humility, yet the King himselfe looking upon the whole state ought to acknowledge, that he cannot merit of it w^e. all hath proceeded but from his mere d^yngs. It was believed heretofore, the greatest happinesse of a Prince, that he was able, & his greatest glory, to be willing to oblige his people. But now he is made not capable of doing any courtesie. When he hath done all that he can, he hath discharged the duty of a trusty servant. I am confident never any age was guilty of the like irreverence, and disrespect to Princes, as is shewne in this book. If all single persons ought to look upon the late bills passed by the King, as matters of Grace, then they truly are so, for no obligation can lay upon a man, to believe things otherwise then they are. This ground destroyes the power of beneficence in a Prince, and the duty of gratitude in Subjects. We should think it very hard, if we, who are but subjects, should be dealt with by the same rule. All owe a duty to their King, to their country; yet upon extraordinary services we deserve, we deserve well of both. The example of the House of Commons, will better instruct him, who have severall times presented their thanks, and humble
acknow.

knowledge of his Majesties gracious favours; and have likewise received thanks from most Counties in the Kingdome, for procuring those bills so beneficiall to the subject: and yet surely the trust reposed in them, by those that chose them, and the end for which they met, did no lesse oblige them in point of duty to doe whatsoever might conduce to the generall good of the Kingdome.

The King ought not to account that a profit, or strength to him, which is a losse and wasting to the people, nor ought he to think that perisht to him, which is gained to the people. By the same argument the people may share all that he hath, and he is bound to believe, he has lost nothing. If King and people have severall rights, what law is there, which binds the King *suo jure cedere*, and enables the people to preserve their rights, nay to challenge his? And if they have not, but the interests of King and people be either altogether one and the same, or so inseparably united, as they cannot be severed, then it equally follows, the people ought not to account that a profit or strength to them, which is a losse and wasting to the King, nor ought they to think that perisht to them, which is gained to him.

Regall dignity was erected to preserve the commonalty. It was so; for out of the sense of those miseries, which the want of due administration of justice produced, routs became societies, and placed a head over them, to whom they paid the tribute of reverence, for the benefit of Protection.

But that which is the end is farre more honourable, and valuable in nature, and policy, then that which is the meanes. The conclusion implied is, therefore the Commons more honourable then the Sovereign. I will frame some other arguments upon the same principle, & see how he approves them. Angels are ministring spirits for the good of men, but the end more honourable, and valuable then the meanes, therefore men more honourable then Angels. Once more in a closer paralel; Christ is made the head of the Church for the salvation of man, *but that which is the end is far more honourable, and valuable &c then that which is the meanes;* therefore man far more honourable and valuable then Christ. If any should think these instances doe not fully conclude, because the highest end of Angels ministration, and the obedience of Christ, is the glory of God; he must consider, Gods glory is the supream end of government also. And therefore this being common to both, cannot difference
the

the case. Though we grant, the good of the people is more valuable, he cannot hence infer a greater worthinesse, or more power to be in them: though the safety of patients is most to be regarded, yet the Physitian is much better qualified to effect that end. Marriage was ordained for the lawfull procreation of children, that is honourable amongst all men, we doe not read, this is so. The rule doth hold in such meanes, as are only valuable by that relation they beare unto their ends, and have no proper goodnes of their owne. But a King is not so to his people; if we looke back unto his first extraction, when he was taken from among the people to be set over them, we must needs behold him even then as a man of some worth, honour and eminency, which the superaddition of Royalty did not destroy, but encrease. To be a meanes of his peoples preservation, is very consistent with the height of honour. The case is not unlike in the noblest professors, the Divine, the Lawyer, the Physitian, compared to their severall charges; they the meanes, these the ends: shall we from thence conclude the poore client a better man, then his learned counsell, or the simple patient, then his Doctor.

This directs us to be transcendent above all politikes,

litiques, to the Paramount law that shall give law to all humane lawes whatsoever, and that is *Salus populi.*] How many nations hath this abused principle brought to ruine and confusion! It is unquestionable, in the constitution of all Governments, this is the prime end, as being most agreeable with the joynt interest both of rulers and people. It is as much without doubt, that after estates established, the governours proportion all their lawes to this end; for who that is wise will not provide for their safety, as well as he can, in whose destruction, his own is involv'd. notwithstanding this, the multitude (not comprehending the reason which made all people commit themselves, their lives, and fortunes to the trust of their rulers, who were wiser, and therefore could better foresee dangers, and had the greatest share in the present state, and therefore would more carefully endeavour to prevent them) readily hearken to crafty men, who seeme to pittie their sufferings, and tell them they are not so well governed as they might be. Thus *Abshalon* stole away the hearts of his Fathers Subjects. O that I were made judge in the land, that every man which hath any suit or cause, might come unto me, and I would doe him justice. There is little good to be expected from

from those, who will doe wrong, that they may have opportunity to do right. Such men have great advantage on weake understandings, because there is no state wherein it might not be wished that somethings were amended, and they presse upon them present inconveniences, and frame some new form, wherein they promise them, they shall be free from all, and therefore desire their assistance in bringing this happy change about. The people full of great hopes cry up these men as the only fit instruments of state, who pretend only to take care for the publique, and though they have nothing, yet would be thought, not to desire any thing. Having thus gained the affections of the people, their next worke is to pick a quarrell with great officers (they conceive because they accule so zealously, it will be presumed they are innocent themselves) that by displacing them, they may make roome for themselves. If such men will not easily out of their preferments, the people are acquainted, these are the only rubs, which stand betwixt them and an happy government; these are the close enemies to the State (and so much the more dangerous, because they carry their malignant designs so secretly, they cannot find proofes against them) *Salus populi* is now

concerned, the whole Kingdome is in danger; no way to scape this imminent perill, but by tearing these men from the Prince, if in a Monarchy, or putting them out of the Senate, if in an Aristocracy. Amongst these distractions, and unsettlement of Government, what course is to be taken? The best way I know, (but 'tis difficult) is to make the people wise, and make it appeare, there is no reall danger, except from their tumultuous endeavours to avoyd those which are imaginary. Let them rely upon their governours, who have most to loose: (especially if they have given them great & late signes of their affection to & care of them) this is the most probable way of safety; but if they should miscarry (which they can have no reason to suspect) they will perish with a great deal of discretion.

It seemes unnaturall to me, that any nation should be bound to contribute its owne inherent puissance, meereley to abet Tyranny, and support slavery. The inconveniences of Tyranny conclude nothing against just monarchs, we are acquainted only with those happy names of King and Subject. It is so farre from being unnaturall that any nation should be bound (by which I suppose he meaneth consent, from which an obligation naturally followes,

lowes, for it is, as with him in the Comœdy, *voluntate coactus sum meâ*) to contribute it's power to that end, that some have made it their choice, others their refuge. *Seneca* tells us, (speaking of the state of *Rome* in *Julius* and *Augustus* his times, *Salva esse Roma non poterat, nisi beneficio servitutis*. How is it against nature for the *Turkes* to be obedient to the grand Seigneur, or the French *Pesant* to his Prince? There may be reasonable motives why a people should consent to slavery; as if in danger of a potent enemy, they could hire none on gentler conditions to undertake their defence, or if reduced to extream want, they had not wherewith to sustain themselves, they may very probably, like *Esau*, passe away their birthright, liberty. We finde an example of each case in holy Scripture. The *Egyptians* parted with all their mony, and cattle, and past away the right to their lands, and became servants to *Pharaoh*, upon this *Gen. 47.* condition that *Joseph* would afford them bread. And the *Gibeonites* bought their lives of the children of *Israel* with the price of their liberty, and thought they had a cheap purchase. *Jos. 9.*

From the word trust used by his Majesty, he gathers, *the King does admit his interest in the crown in part conditionate*. No ground for this collection:

for there may be a trust, and that is so much the greater, if free from condition. But the thing is true *de facto* in some sense, and his Majestie hath alwaies acknowledged, He is bound to maintain the rights and liberty of the subject. Yet we must not so understand it, as if the right to His Kingdome were so conditionate that it were capable of forfeiture upon a not exact performance of covenant.

As for the word elegerit, whether it be future or past, it skills not much.] If he take notice of the conclusion deduced thence he may find as much difference between the Tenses, as between Democracy, & Monarchy. But the *consuetudines*, which cannot refer to the future, undeniably evinces, it was meant of the time past, and the oath in english is free from all ambiguity, rendring *consuetudines quas vulgus elegerit*, by rightfull customes which the commonalty of this your Kingdome have. I may adde the different manner of the Kings answer as it is set down in their Remonstrance. Where to other questions which respect the future, the King answers in the future; in this as referring to what is past, He answers *per verba de presenti, concedo & permitto*.

The King is bound to consent to new lawes, if they
be

be necessary, as well as defend the old.] His Majestie never thought otherwise; but He is not bound to an implicate faith, to believe all necessary, which is pretended to be so.

The word elegerit, if it be in the preterperfecttense, yet shewes, that the peoples election had been the ground of ancient lawes and customes, and why the peoples election in Parliament should not be now of as great moment as ever I cannot discover.] The election there (spoken of is the election of the diffusive, not of any representative body, and that with the tacite consent of the Prince, and so of much other authority, and for the representative, their ancient right is not denied, no law shall be abrogated, none enacted without their assent. But there is a mean between doing nothing, and all.

The result of all is, our Kings cannot be said to have so unconditionate and high a propriety in all the subjects lives, liberties, and possessions, or in any thing else to the crown appertaining, as subjects have in the Kings dignity.] The King pretends not to have any unconditionate propriety in the subjects lives liberties, and possessions, he would onely be allowed it in his own. And what he can mean, by subjects having an unconditionate and high propriety in the Kings dignity, surpasses my understanding.

standing. It may seem to speak this wicked doctrine, that subjects may dispose of the Sovereignty as they please; for this right an absolute propriety gives.

If the King had such high right as subjects, it were not lawfull or naturall for him to expose his life and fortune for his country.] How is it lawfull for subjects then to doe so? The people have as great, nay greater obligation of exposing their lives for the King. This appeares by the Protestation, as also by the ancient oath of fealty at the Coronation, *Je deviene vostre Liege de vie, & de biens, &c.* Sir Hen Spelman gives us a form of *sacramentum ligantiae* still in use. *Tu I. S. jurabis quod ab ista die in antea, eris fidelis & legalis (leaux) domino nostro Regi, & suis heredibus: & fidelitatem & legalitatem (Leaultie) ei portabis de vita & de membro, & de terreno honore, & quod tu eorum malum aut damnum nec noveris, nec audiveris quod non defendes (i. e. prohibebis) pro posse tuo, ita Deus te adjuvet.*

I cannot imagine any possible colour for such an inference; I would sooner make a rope of sand hang together. may not a tyrant expose his life in defence of his slave, without breach of any law? He doth but defend his owne goods, for the Scripture calls his slave his money. His owne instance
confutes

confutes him, *bonus pastor ponit vitam pro ovibus suis*; for it is evident, this good pastor, was our Saviour, absolute Lord of his flock.

Parliaments have the same efficient cause as Monarchyes, if not higher.] what, higher then the law of God and of the whole land? yes, for in truth the whole Kingdome is not so properly the author as the essence it selfe of Parliaments.] just as a Proctour is the essence of him for whom he appeares, or an Ambassador is essentially the King: But suppose it true; this declares the materiall cause, proves no greater dignity in the efficient. But the reason is to come, *by the former rule* (he had no good fortune with that before) *'tis magistale, because we see ipsum quid quod efficit tale.*] what, *magis tale* in essences? or can a thing be *magis tale* then it selfe? This I conceive is beyond the sense of the house. However this confession and the rule *quod efficit tale est magis tale* subjects the Parliament to the people, as well as the same rule would doe the King; and proves as well that the Parliament is *universis minus* though it be *singulis majus*.

Parliaments have also the same finall cause as Monarchyes, if not greater.] what, greater then *salus populi*, nay then to promote the Subject to all kind of Politicall happines, which he told us, was the end

and duty of a King? His reason is, publique safety and liberty could not be so effectually provided for by Monarchs till Parliaments were constituted. This proves not the end higher, but shewes they are good helps in government, which is readily granted.

Two things especially are aimed at in Parliaments, not to be attained to by other meanes.] Not so easily attained indeed; but certainly many Kingdomes have enjoyed a most high degree of civill happiness under arbitrary Monarchs, who knew no Parliaments. Such as have abundantly satisfied [the interest of the people,] & in all weighty affaires [advised with the ablest counsellors.] Two other ends might have been named as essentiall as those; which are, to supply his Majesties wants by subsidies, and assent to the abrogation of old lawes, and enacting new, as necessity shall require.

In the summons of Edw.1. (claus.7.m.3. dors.) we see the first end of Parliaments expressed: for he inserts in the writ, that whatsoever affaire is of publique concernement, ought to receive publique approbation, Quod omnes tangit, ab omnibus approbari debet, or tractari.] I have not the convenience of examining this record, and therefore cannot be able to satisfie my selfe in circumstances, which perhaps might

might afford some light to the cleerer understanding of this rule. For the present therefore, I will allow it to be certaine law (though he would not be willing I should have the same liberty, and argue the legality of a thing, from a Princes bare affirmation) and see what advantage he can make of it. It seems to me to be deduced from an evident principle of reason, and to flow hence; it is against equity, that the act of one, should prejudice another without his consent. There is much caution required to the managing this rule. For if it be understood in its full latitude, without all limitation, it will dissolve the bonds of Government, by reducing us to that primitive state, wherein every one had absolute right, to dispose of his owne as he pleased. Therefore we must take into consideration, that multitudes finding a necessity of Government, did restraine this native right by positive Constitutions, so that in the best governed States, the greater part of men were presumed by a fiction of law, to handle and approve such things as they never heard of. The ground of which fiction is very reasonable; for the people though they are not advised with, may well be said to consent to what their rulers doe, because they have entrusted them with their safety,

safety, which without this power convaied into such or such hands, could not be so effectually provided for. Thus in absolute Monarchies, what Princes doe is legally the act of all: thus in our Kingdom two hundred thousand debate and approve things by the suffrages of two; who many times vote quite contrary to their desires who have entrusted them, and yet the people shall be said in law to affirme, what really and in truth they doe deny. The result of all is this: those things which the law doth require shall be transacted only by Parliament, the people doe handle & approve of by their Knights or Burgeses: in those things which the Law hath entrusted the King with (many of which concerne the good of the whole) what he does, is their act. Hence it may appear, the Kings Writ by which he calls the Houses together to consult *de quibusdam arduis & urgentibus negotiis*, is no waies opposite to this supposed Law, understood with due limitations. The desire of the Commons in the Raigne of *Edw. 3.* seems to mee fully to justify the same, which was, that they might not advise in things *de queux ils n'ont pas cogissance*. The matters in debate were of no small concernment, being no lesse then the settling inter-

stir-

tine commotions, guarding the marches of Scotland, and the Seas. But the answer is, *herein they renounce not their right of consent, they only excuse themselves in point of counsell, referring it rather to the King and his Councell.* Here then we have the judgement of the House of Commons that in affaires of some nature, and those too very much concerning the safety of the whole Kingdome, there may be fitter Counsellors then they are. I had conceived, *n' avoir pas cognizance*, had not signified to be ignorant, or not to understand things so thoroughly; since cognizance uses to be taken in a Law notion, and to signifie a right of handling matters judicially, or power and jurisdiction, as cognizance of Plea. We meet with a very observable passage, and which will give us great light in this buisines; it is to be seen in a diary (MS.) of the Parliament held, 1. Hen. 4. *Et le lundy ensui- vant S. lendemain des almes, les communes prirent qu'eux ne soyant pas entrez en les rolles de Parlement come parties au juggedementz quex sount donez acest Parlement mes la ou ils sount in rei veritate partie et prive a tella quar lez juggedementz appartient solement au Roy fosqz la ou ascun juggedement est renduz sur un estatute feat par le comune profitz de Roialme.*

Le quel fust grante.

In English thus.

And the munday following, said: the morrow after all Soules-day, the Commons prayed that they might not be entred upon the Roles of the Parliament, as parties to any judgements given this Parliament, save only where in rei veritate they are part and privy thereto. For that the judgements appertaine only to the King, except where any judgement is given upon a Statute made for the common profit of the Kingdome.

The which was granted.

How this shall derogate from Parliaments either in point of consent, or counsell, I doe not know, for at last they did give both, and the King would not be satisfied without them, and the passage evinces no more but this, that that King was very wise and warlike, and had a very wise Counsell of Warr, so that in those particulars the Commons thought them most fit to be consulted, as perhaps the more knowing men. The conclusion which more naturally followes is this, when the King requires and will not otherwise be satisfied, they may advise in matters not properly of their cognisance.

The conclusion by which he thinks he hath gained so much, may without any inconvenience be assented to. These words, *ad tractandum, ordinandum, faciendum*, doe fully prove, that the people in those dayes

deperit non solum in eis ad confessionem, ac nisi ad confessionem. Beliefo, in those things which belong to their cognizance. The formes which are used in passing a bill confesse so much: *les Communes ont assentés*, and *les Seigneurs ont assentés*.

I have not yet done with his rule, *Quod omnes tangit, ab omnibus approbari debet.* It is true the most popular state could never punctually observe it. For some of the poorer, & some of the younger sort, and women generally, by reason of their sex are excluded, yet all those, having lives to loose, are concerned in the publique safety. But with what equity can he then thinke a considerable party of this Kingdome, can be denyed the benefit of that, which he conceives a most reasonable law? I meane the Clergy, who certainly cannot deserve to forfeit the priviledge of common men, because they are more immediately the servants of God.

His next endeavour is to shew that Parliaments have been much lessened, and injured of late by some passages in his Majesties answers. But he can never make it appeare, that any part of their truly ancient power is denyed to them. The Kings words are, what the extent of their Commission, and Trust is, nothing can better teach them, then

the writ whereby they are met. We called them (and without that call they could not have come together) to be our Counsellors, not Commanders; for however they frequently confound them, the offices are severall.

The writ runs, *super dictis negotijs tractaturi, vestrumq; consilium impensuri*; so that the cleare meaning is, their advise is not Law, except the Royall assent establish it into an act.

'Tis alleadged, he calls them *Counsellors not in all things, but in quibusdam arduis, &c.* and the case of *Wentworth* is cited, who being a member of the House of Commons, was committed by *Q. Eliz.* but for proposing, they might advise the *Queen* in a matter Shee thought they had nothing to do to meddle with. He answers, *a meere example (though of Q. Elizabeth) is no law.* It is true, a bare example shewes only what was, not what ought to be; but when grounded on authority, and no way excepted against, by those, who have alwayes been earnest defenders of their Priviledges, it may be reckoned amongst sound Presidents: what he adds; *that some of Her actions were retracted*, is a confirmation of this; for this being out of the number, it seems it was accompted legall. *Exceptio firmat regulam, in non exceptis.* Yet
neither

neither did the King so quote this president as to build a right upon it.

He alleadges, *the King denyes the Assembly of the Lords and Commons, when he withdrawes himselfe to be rightly named a Parliament, or to have any power of any court; and consequently to be any thing, but a meere convention of so many private men.*] This is falsly imposed on His Majesty. His Answers and Messages speak the contrary, which are directed to both Houses of Parliament. Besides He hath passed some bills since his withdrawing. All that He affirms is that the sole power of making or repealing lawes, and altering any thing established is not in them, but if He upon mature deliberation shal preferre the present goverment to the proposed change, then their order is not to have the force of law, and oblige the Kingdom.

The King is said to assert, that because the law hath trusted him with a prerogative to discontinue Parliaments, therefore if He do discontinue Parliaments, to the danger or prejudice of the Kingdome, this is no breach of that trust, because in formality of law, the people may not assemble in Parliament but by His writ.] This is grosse forgery: if it appeare to him necessary or expedient for the Kingdom, He acknowledges He is obliged by that trust reposed

in him to issue out his writs. And to this end, he graciously signed the bill for a triennial Parliament, which like Physick well timed, may preserve the body of this State in health and strength, by not suffering ill humors to grow to any head.

Another assertion of the Kings he laies is, *if the Parliament make any transgression in other matters, then what he pleases to propose, they are lyable to imprisonment at his pleasure.* All this he collects from the citation of *Wentworths* case. The sence of his inference is this; because they cannot justify the meddling with things which belong not to their cognisance, therefore they may be punished, if they meddle with those that do. We may observe an affected mistake in this author, of which he makes frequent use; and this animadversion though once laid down, may often be applyed. Whatsoever the Houses do, he calls that, the Act of the people. Whereas the truth is, they represent them only to some purposes, and ends. So that if they exceed their commission, and vote things not belonging to their cognisance, the People by no meanes is engaged in it, as having no legall way of expressing themselves in such cases.

His Majesty clearly to prove, that the trust committed to both Houses, cannot bind Him to assent,

assent, to what ever they propose, seem it of never so dangerous consequence to the Kingdom; nor absolve Him in point of conscience, if His reason tell Him, His people will extreemly suffer vnder the grant, argues thus. It is impolsible that the same trust should be irrevocably committed to Us, and Our heires for ever, and the same trust, and a power above that trust, (for such is the power they pretend) be committed to others: did not the people, that sent them look upon them, as a body but temporary, and dissoluble at Our pleasure? and can it be beleived, that they intended them for Our Guardians and comptrollers in the managing of that trust, which God and the law hath granted to Us and Our posterity for ever?

Strange it is, that affection should so blinde the understanding, and worke mens believe not according to reason but desire! I must needs think the let lies only in his will, else he could never satisfy himselfe with such weak answers. *It is true, saith he, two supreames cannot be in the same sence and respect.* If he had not hoped to hide himselfe in generalls, he would have descended to particulars, and told us, in what sence, what respect, and what matters the King was supream, in what the

two Houses. But an application would have discovered the truth, even to weak understandings.

Nothing is more knowne, or assented to, then this, that the King is *singulis major*, and yet *universis minor*.] I have already evidenced the contrary; yet I will speak something to it here. By *universis* he must mean the representative all, which therefore he concludes to be above, and have greater power then the King, that is such a power as He is bound to obey. So it seems the King hath taken the oath of allegiance as well as we, and we may call Him, our fellow subject. Yet the oath of Supremacy he tells us, *is now aies endangered*.] The sense of his reason is, because *he is a better man then any one of us, take us single*. He tels us He is better then any one, He does not tell us, He is better then two; if the Kings supreamacy be no more but this, it is no more then possibly He might have and probably had before He was King. It is not the Prince *singulis major*? nay may not any Lord in the Land challenge the same supreamacy over all the Knights, any Knight over all esquiers to be *singulis major*, though *universis minor*? But perhaps some othes limitation may be found out; the meaning shortly shall be,
that

that he is above the Pope in these his dominions; not but that He is under His subjects. to take of these and all other corrupt glosses, I shall refer him to cap. 12. *vices*, 4°. Hen 8. In the preface of which statute the Kings supremacy (not over single persons) but the body Politique is clearly delivered: The words are these; *Where by divers, sundry, old, authentick histories & chronicles, it is manifestly declared & expressed, that this Realm of England is an Empire and so hath been accepted in the world, governed by one Supreme head and King, having the dignity and Royall estate of the Imperiall Crown of the same: unto whom a Body Politique, compact of all sorts and degrees of people, divided into armes, and by names of spirituality and temporality, been bounden and owen to beare next to God, a naturall and humble obedience.*

If there were no King at all in England, you would call this government an Aristocracy; and why I beseech you do you not confesse that name now, seeing the thing is altogether the same? for if they give his voice, tis all one, as if he had no voice, if their power must over-rule his, tis all one, as if he were destituted of all, nay, why is it th ought fit to send to him and sollicite his consent, when it is legally past in that the two houses have voted it? why to all publique bills do they require this confirmation,

firmation, *Le Roy Le veot?* (is it only for the same reason that *Bellarmino* gives why the Pope being alone infallible, calls generall counsellis, *ut res suavius transigatur?*) suppose he should returne in answer, that of *SENECA*, *Si vultis scire an velim, efficit ut possim nolle.* Thus though he plead for a new government, he is ashamed to own it by the right name. For he tells us, not without some indignation at the very thought of such an innovation. *This new Aristocraticall fabrique cannot seem to any impartiall man, but as empty a shadow, as airy a dream as ever mans fancy abused it selfe withall.* I dare say he cannot meet in all histories, and records (except of such Parliaments as have depos'd Kings, which he confesseth no free one ever did) with one example of this nature, that the two Houses should pretend to a power, which must of necessity over-rule the King. Indeed a reasonable man cannot imagine, any president possible, because, since the law hath given the King a power, by dissolving the Parliament, to take away that power (as is pretended) greater then his own, if they had ever made claim to superiority over him, he would quickly have put an end to that dispute. Before this power be challenged, it would besit, to vote down,

down, that clause in a law made 2. Hen. 5. cited by His Majesty, that it is of the Kings regality to grant or deny such of their Petitions, as pleaseth him selfe.

Yet notwithstanding this, he must be UNIVER-
SIS MINOR, for this wee see in all conditionate Princes, such as the Prince of Orange &c. I never knew he had Regall power before. This instance abundantly manifests his designe, though he is pleased to say, he speaks nothing in favour of any alteration, but is as zealously addicted to Monarchy, as any man can, without dotage.]

To the most absolute Empire in the world, this condition is most naturall and necessary, that the safety of the people is to be valued above any right of his.] It is against common sense to suppose a King that is in his wits, (me thinkes all good people should take to heart those desperate conclusions, which are built upon most unreasonable and most unworthy suppositions of a King that is mad, or a child; since never subjects had greater obligation to be thankfull to Allmighty God for giving them a Prince as eminently able, as vertuous) who will not provide for the safety of His people, nay who will not part with some of His right, rather then they should perish, because in their destruction

He looses all. Yet this does not prove a King should part with His rights, as often, as they will pretend to be in danger. If this were once admitted, what wild plots would be invented, what strange intelligence would be received from invisible spies? and as often as crafty men were ambitious or covetous, so often the silly people were to be frightened.

Since all naturall power is in those which obey, they which contract to obey to their owne ruine, or having so contracted, they which esteeme such a contract before their owne preservation, are felonious to themselves and rebellious to nature.]

He cannot mean any people contracting to their own certain ruine; there never was government, guilty of this madnes: therefore He must understand a contract to a possible ruine; for example, an agreement patiently to submit themselves to the ordinary tryall of Law, and to suffer, if it should so fall out, though under an undeserved sentence. In this case, he that does not make resistance, and prefer his preservation to his contract, is pronounced *felo dese*, and a rebell to nature. Unhappy thiefe, who for felony is condemned to be hang'd, and will be guilty of another felony in being hanged! what way is left unto

inno-

innocency? He must kill as many as he can in His own defence; so shall He escape, or dye in the quarrell; either way He hath done right to nature. Let us put another case; an innocent man by the ordinary course of justice is adjudged to dye, upon the testimony of two bearing false witness: he was free from fault before; now he is in some danger, except he refuse to be punished, he becomes guilty; no lesse then a selfe murderer. I wonder what opinion this man hath of Martyrs, who value not their owne preservation; can he think by submitting themselves to one fire, they deserve to be cast into another? nay, what of Christ himselfe? who certainly suffered most injuriously, & though he had strength enough to preserve himselfe, and could have been assisted by an Army of Angells, yet he was obedient to death. I cannot imagine from what principle he should draw such a conclusion, unless it be from this, (whence indeed most of his book will naturally flow,) that there is no such thing as justice, but *suprema lex*, the paramount law, is profit; and the faults of men consist, in the not violation of contracts, in the not breaking promises, if they be for their disadvantage: for it were a sinne against native liberty to make our selves the slaves of justice.

If we examine the ground of this doctrine most destructive of all commerce, all government, we shall discover it to be no other but this, that the law of nature doth allow a man to defend himselfe, and provide for his owne preservation. But the observer takes no notice, that it is in our power to part with this right, & yet doe nothing contrary to nature, if reason tell us, we shall thereby obtaine a more excellent good, the benefit of peace and society; nay, that this restraining Our selves by compact of that naturall liberty to defend our selves, will conduce more, to that end, for which it was given us, our preservation and safety. Because in probability, we shall be in lesse danger, living amongst men who have agreed to be governed by certaine lawes, then if every one followed his owne inclination. Where one suffers hereby wrongfully, thousands enjoy the benefit of being protected from wrong. And therefore though it should happen to me in particular, to be condemned by the magistrate without cause, I am bound to suffer patiently, because having made such a bargain, which might have been profitable, I have no right to recall it, when it appears disadvantageous. I owe, that I have been safe thus long to the benefit of this covenant, & therefore

fore am bound in justice to share the inconveniences. If reason will not satisfy, perhaps Christianity may. *Qui resistunt potestati, ipsi sibi damnationem acquirunt.* To resist the magistrate, damnable. The powers here spoken of, were heathen, yet Christ commanded his, to be subject even to them. That answer (with which too many are deceived) cannot excuse disobedience, and Rebellion; This precept obliges private men, but not magistrates. Since inferiour magistrates being opposed to the supream power are but as private men, and in this respect the reason of obedience is common to both. Neither is this a hard law, if duly considered. If we suffer justly, we have no reason to complain: if undeservedly, we are punished, but not hurt. The magistrate is *Dei minister nobis in bonum*, because God will abundantly reward us for our patient suffering in obedience to his command. *But this is against nature.*] He must mean nature guided by right reason; and doth that dictate, that rather than part with a temporall life, we ought to forfeit an eternall?

It is objected that a temporary power, ought not to be greater, then that which is lasting and unalterable.] He does not frame the Kings argument aright; which concludes on this ground, that it is not probable

bable the lawes should place a power greater then his in such a body, and yet leave it to his disposal, when to call that body together, when to dissolve it; that is, to determine, when and how long he would be over-ruled, & when be King again. His Majesty presses it farther (which he dissembles) This trust being irrevocably committed to Him and His heires for ever; it cannot be conceived, how it should sleep, during the sitting of the Houses.

But if this were so, the Romans had done unpolitically, in creating Dictators, when any great extremity assailed them and yet we know it was very prosperous to them, sometimes to change the form of government.] Hence we may conclude it good policy, in imminent danger, to trust to a Monarchy, not an Aristocracy, and much lesse to a democracy. The Romans successe cannot be imputed meere-ly to their change, but to this, that they altered their form from worse to better, (as to their present ends) but that will not justifie his desire of innovation from better to worse.

It is further objected, He sayes, if we allow the Lords and Commons to be more then counsellors, we make them Comptrollers, and this is not suitable to Royalty. He answers, *we say here, that*

to consent is more then to counsell, and yet not alwayes
 so much as to command and controul.] True, not al-
 wayes; but then it is, when their consent shall im-
 pose a necessity upon the King of doing the like.
 He hath not laid down his Majesties words faith-
 fully. The point He stands on is, that their advise,
 is not His law, neither is He bound to captivate
 His reason, or submit His conscience to their
 Votes.

Yes, it must be so; because in inferiour Courts, the
 Judges are so counsellors for the King, as that the King
 may not countermand their judgements, and yet it were
 a barsh thing to say, that they are therefore Guardians
 and Controulers of the King; therefore it holds in
 Parliaments a fortiori.]

The reason why the King cannot countermand
 their judgement, is becaule they sustain His per-
 son, and His consent is by law involv'd in what
 by law they do, and there would be no end, if He
 should undoe what He hath done. *Authoritas rei
 judicate vim legis habet*; there can be no appeal
 from himselfe to himselfe. He therefore makes
 the Judges take an oath, they will deny to no man
 common right by His letters, because He is not to
 passe sentence in private, but in publique and in a
 Judiciall way. That it is his owne act, appears

from this, that He delegates his power to them, and this is a known rule, *Quod Rex facit per officarios, per se facere videtur*. The truth is Kings have a right, and heretofore they made use of it, to sit in judicature personally. Camden tells us, that *Bancus Regius ita dictus erat, quod Rex ipse in eo praesidere solebat*. Sir Tho: Smith too in his description of England, *Subsellia Regia* (vulgo *Bancus Regius*) *ex eo sortita sunt appellationem, quia ibi ipsi Anglia Reges sedere consueverunt*. This Court was called the Kings Bench, because the King sat as judge in it in His proper person. It removed with the King, as is to be seen 9. Hen. 3. cap. 11. by which the Court of common Pleas is fixed. *Common pleas shall not follow our court, but shall be holden in some certain place.*

Moreover the Judges swear, they will not assent to any thing which may turne the King in damage, or dishonour, by any manner, way, or colour. 18. Edw: 3. when he can make these things agree to the two Houses, he shall conclude from the Judges sentence to their votes. But since it will clearly appear, that they are not the mouth of the King, the Lords sitting in a personall capacity, and the House of Commons as representing the body of the Kingdom (though not that to all intents and

pur-

purposes) the inference must by no means be granted. I shall adde this to make the answer more clear, and to avoid mistake: in matters of Law, there lyes an appeal to them, a writ of errour being brought, as to the highest Court; not so in matters of state. Because whilst they passe sentence according to known lawes, the state is no way indangered thereby, but if they challenge to themselves a liberty of passing sentence according to reason of state, they may when they please overthrow our lawes. The Counties which intrusted them looke upon them as Judges, not Politicians.

But we ought not to conceive, that they will either Councell, or consent to any thing, but what is publickly advantageous.

When the King conceives they do not otherwise, He will most willingly follow their advice. This fallacy (though extreamly weak) hath influenced on all his book. He takes the two Houses in such a Notion as not failing of their duty, but doing every thing as they ought, and supposeth the King to be wanting, to that trust which is committed to him.

By such Councell and consent we cannot imagine the King limited or lessened.

Such a Consent, in which his is necessarily involv'd,

volv'd, renders his Power not so properly lesse as none at all, it doth not limit, but take it away. Pray put the Case, a thousand pounds is left to *Titius* and *Sempronius*, to be bestowed upon joynt consent, *Sempronius* being just and reasonable grants to *Titius* the right of a Negative, so that without he will concur, he confesses he can doe nothing, (The King doth not pretend to have power of repealing old or constituting new Lawes without them) *Titius* not content with this Negative, affirms *Sempronius* is bound to consent to whatever he thinks fit; if so, is not this money wholly at *Titius* his disposal? Can any one be so stupid as to tell *Sempronius* notwithstanding this, He hath a full power? How did ship-money destroy our propriety, but by this very consequence? Law and Reason informe us, that *Ejus est velle qui potest nolle*. Hence *Tryphonius* determines that a Captive cannot consent to his sonnes Marriage. Why? *Cum utiq; nec dissentire posset*. And *Aristotle*, ἐν οἷς ἐστὶν ἡμῶν τὸ ἀρκεῖν, καὶ τὸ μὴ ἀρκεῖν.

L. in bello.
S. medio.
D. de captiv.
et postlim.

It is alledged in derogation of Parliaments: that whatsoever the right of Parliaments is, to assemble or treat in all cases of a publicke nature, yet without the Kings concurrence and consent, they are livelesse conventions without all vertue and power, the very name

of Parliaments is not due to them.

If this Man had a mind to deale candidly, he would deliver the Kings sence truly, and let Him speak His own words. The summe of which is onely this, the two Houses have not power of making lawes and altering the established government without Him.

But this Allegation at one blow confounds all Parliaments, and subjects us to as unbounded a regiment of the Kings meere will, as any Nation under Heaven ever suffered under.] Very tragically expressed and with high confidence, but not any colour of reason. For are we not left in the same state in which we were? His Majesties denying to bring in a new government, doth not take away the old. If He thinke it not convenient to alter that forme which the least deceitfull Argument, long experience under so many of His glorious Ancestors hath proved happy, can any who is not in love with error inferre hence, this subjects us to a lawlesse and most unbounded regiment?

Vpon the same reason by the Kings desertion other Courts must needs be vertuelesse and void.] It were a strange consequence to conclude that, because that may be done without the King, to which His consent by law is not required, therefore that

may be done without him, to which his consent is by law necessary.

Many Kings have dissented from Bills, yet the people were never so mad, as to feare a desertion of all Courts. It is against common sense to fancy that He which enjoyes all by the benefit of Lawes, should hinder the due administration of Justice according to thole Lawes, so willfully endanger, not onely his rights, but safety, by putting His Kingdome into tumults and combustion. Every wile man may have as strong security, he shall not suffer from the (onely not impolsible) execution of such a power, becaule it is so manifestly destructive of the Kings own interest (and made evident to be so as well by experience as by reason) as any man can have reason, not to be afraid of himselfe, becaule he hath a full power over himselfe and may destroy himselfe, when he pleases.

The intent of the King is, that the great Assembly of the Lords and Commons doe not represent and appeare in the Right of the whole Kingdome, or else that there is no honour nor power, nor Iudicature residing in that great Majestickall Body, then which scarce any thing can be more unnaturall.

A most impudent collection, the meaning in breife

breife is onely this, when the particular consents of three are necessary, it's not in the power of any two, to effect whatsoever they please. A most prudent establishment in favour of present government: that we may have no innovation without the mutuall agreement of King and people.

It is attempted to divide further between part and part in Parliament. Who these attempters are, I enquire not. I suppose he meanes those who devided the Lords into good and bad, the Members of the House of Commons, into well, and ill affected.

So making the major part not fully concluding. They are not denyed to conclude as far as the power of that House extendeth, but this cannot reach to an absolute and finall decifion.

It is a wonderfull thing that the King's papers being fraited scarce with any thing else but such doctrines of division, ('tis more wonderfull that in a well governed state such disrespectfull language of Princes from private pennes should passe unregarded, unpunished) tending all to the subversion of our ancient fundamentall constitutions, which support all our ancient liberties, and to the erection of Arbitrary rule, should find such applause in the world.]

There is a vast difference between declaring what divisions are, and causing them to be; to shew,

shew, is not to teach division. But it is beyond admiration, if the King's aimes are such, as He would have the world beleve, that they should find such applause. Especially if we consider the persons from whom; men that have much more to loose, then some who may ayme at getting greater fortunes, by pretending they are in danger to loose what they have: Men that are known not to value their lives equall to their liberties; men of as great wisdom, as honesty, neither of which would permit them to be active to make themselves miserable, and pull upon their posterity and Countrey perpetuall slavery. What impudence of malice is it, to accule the King to intend that, when the world sees how much He hath suffered meerly to prevent it? Could our Ancestors ever have beleev'd there should come a King, who would plead for *Magna Charta*, who would hazard His Crown in defence of the subjects Liberty, and desire nothing more, then the utter abolition of all Arbitrary rule?

If the King have parted from his Parliament meerely because they sought His oppression, & He had no other means to withstand their tyranny, Let this proclaim them a voyd assembly.

His Majesty never layd such charge to the Parliament,

liament, yet it is most evident there was too great reason elsewhere to justifie His seares; when notwithstanding His deepest Protestations to maintaine the true established Religion, they still imputed to Him inclining to Popery; when notwithstanding His utmost endeavours to suppress that unhappy Rebellion in *Ireland*, and after the Houses had taken that worke into their care, His frequent pressing them to send over sufficient supplies, and not to spend their time in businesses of little moment, whilst their poore Brethren were dayly butcherd, yet the people were made beleieve He was a favourer of their bloody designs; when the bawdiest sort of the people were permitted to come even to the Parliament, in Clamarous, and unwarrantable multitudes, and there was a kind of discipline in disorder, tumults being ready at command, upon a watch-word given; when seditious Pamphlets hourly came out, and many Presses laboured day and night to abuse the King; when factious Preachers were encouraged, whilst they did cast publick obloquies on the Lawes which stood in full force, and which if they had been duly executed, would have justified themselves, by restoring Us to our former Peace and happinesse, which We so long injoyed,

as We knew how to obey; when such seditious fellowes out of their Pulpits did dare to strike even at the highest, and with more boldnesse, because with lesse danger, as meaning to fight with other mens hands.

If the King could be more wisely or faithfully advised by any other Court, or if His single judgment were to be preferred before all advice whatsoever, it were not onely vaine but extremely inconvenient that the whole Kingdome should be troubled to make elections, and that the parties elected should attend the publike businesse.

There are other Ends besides this for which they are called together, yet this is one main end, as appears by the Kings writ, and therefore He never refused to advise with them. The usuall (but not the onely) forme of the Kings Answers to such Bills as they were not willing to passe (which I beleeve was never objected to any Prince before to His Majesty) *le Roy s'avisera*, proves that after the advice of this His great Councell, He is yet at liberty to advise further with persons or occasions, as His owne wisdom shall think meet. But this Author will by no meanes take notice, that the use of Councell, is to perswade, not to compell: as if a man in a busi-
nesse

nesse of great concernment, might not very prudently consult with many friends, and yet at last follow the advice perhaps of one, if it appeare more proportionable to the end he aymes at.

Not so, because the many eyes of so many choise Gentlemen out of all parts, see more then fewer.

This Argument, I beleeeve will conclude too much, and therefore nothing at all. For the same reason which denyes a liberty of dissenting to the King, (that is such a number, who see more, because they are more) may deny it to the House of Peers, in comparilon of the House of Commons, and to that House too, in comparilon of the People, and so both King and Lords and Commons are voted out of Parliament. Besides experience shews this rule is not generally true, for I dare say if we ask almost any Parliament man, he will tell us, upon the reading of a Bill, sometimes one man in the House hath found more faults, and urged more just exceptions, then three hundred would have been able to espy. There have been Parliaments wherein Acts have been made to remedy former mistakes. Nay, whole Parliaments have been repeal'd and declared *Null* by succeeding Parliaments, so 21. *Rich. 2. cap. 12.* does voyd and disanull all the Statutes made in a former Parlia-

ment held 11. *Rich. 2.* so 1. *Hen. 4. cap. 3.* repeales this whole Parliament of 21. *Rich. 2.* So 39. *Hen. 6.* In a Statute made at *Westminster* We find a totall repeal of a Parliament held at *Coventry* the yeare before, as made *against all good faith and conscience, &c: the Acts and Statutes laboured by the conspiracy, procurement and excitation of some ill disposed Persons for the introduction and accomplishment of their rancour and inordinate Covetise.* So 49. *Hen. 6.* A Parliament held at *Westminster* is made Null, in regard diverse matters had there been treated and wrought *by the laboured exhortation of Persons not fearing God, nor willing to be under the rule of any earthly Prince; but inclined of sensuall appetite to have the whole governance of the Realme under their owne power and domination.* These are the testimonies that one great Councell bestowes upon another.

I could urge the same Arguments, in the very same words, onely changing a Lay-councell, into an Ecclesiasticall Councell, and upon equall necessity, require the King to assent to what ever they shall vote. I make no doubt, the Author will in this case give him leave to make his conscience his guide, and if he doe, he will think his Arguments deserve no further answer.

The few private ends they can have to deprave them must needs render their counsells more faithfull, impartiall, and religious then any other.] Certainly they may have as many, as any other private Subject, and that this Kingdome hath seldome heretofore suffered under the prosecution of private interest is to be imputed to the excellent policy, which he endeavours to overthrow. They are strangely transported with the love of a popular state, who can so overrule their understandings as to force themselves to think the members of it may not be extreemly subject to *ambition*, which would easily prompt them to alter the good old wayes of bestowing Offices, and collating Honours; to *covetousnesse*, which would tempt them to draw the determination of causes out of the ordinary Courts of Iustice; to *hatred*, which would make them prosecute their enemies with bitter violence, and upon the least suspicion of a fault, to punish them first by imprisonments, and to prove them guilty at leasure; to *affection*, which would make them shield their friends from being questioned, though their corruptions were notorious to all the world.

The Bishop of *Durham* his case speaks home to the businesse, we are told in the 3. c. of the 2.

Parliament held 1. Mar. how the Bishoprick of *Durham* was dissolved in a former Parliament, 7. *Edw. 6.* which was compassed, and brought to passe, by the finister labour, great malice, and corrupt means of certain ambitious persons, then being in Authority, rather for to enrich themselves, and their friends with a great part of the possessions of the said Bishoprick, then upon just occasion, or Godly zeale. Let the world judge, whether this Age may not be subject to the same temptation, and whether a desire to share the means of the Church may not have as strong operations as formerly.

Nothing more common in the Roman story then the bribing of the Senate. This made *Jugurtha* cry out (who by his guifts governed their Parliament) *O Urbem venalem & mature perituram, si emptorem invenerit!* Had it been our unhappinesse to have lived in a popular state (except they are altered from what Histories deliver them) we should have found injustice a trade, and that the most compendious way to wealth was to buy no land, but of the Judges. *Tacitus* gives us a full character of what we might well feare. When the government of *Rome* was changed into a Monarchy under *Augustus*, the Provinces were very well contented *Suspecto Senatûs populiq;*

populiq; imperio, ob certamen Potentium, & avaritiam Magistratum: invalido legum auxilio, qua vi, ambitu, postremo pecuniâ turbabantur.

They must evidently have more private ends then the King, who may be mislead upon wantonnesse, but they must struggle with solid temptations, desire of riches, desire of honours, there being an emptinesse in them, whereas He is full and satisfied. *Si violandum est Jus, regni causâ violandum est;* the greatest motive that can be, a hope to share in Sovereignty, the Parliament to rule the King and they to rule the Parliament.

We have ever found enmity and antipathy betwixt the Court and the Country, but never any till now betwixt the representatives and the body of the Kingdom represented.] How betwixt them and those many that intrusted them? are not they satisfied with their carriage? If this were never till now, it may seem to be upon some causes, which never were till now.

Except M^r Hollis his rich Widdow, I never heard that promotion came to any man by serving in Parliament.] What service commended M^r Hollis to the rich Widdow I cannot judge, this I know, if the nineteen propositions had past, it would have been no newes to heare of many promoted, and they might

might easily have redeemed the time that they have lost, and challenged so much greater honours, because they could not have them sooner. It would have been rare, to have heard of any advanced out of Parliament, & this would have bred good stirring blood in the Countrey, the Gentry would have jostled to get in at the common gate of Offices and Honours.

The Lords and Commons ought not to be deserted, unlesse we will allow, that the King may chuse whether He will admit of any Councell at all or no, in the disposing of our Lives, Lands and Liberties.

By Law He cannot, He will not refuse to hearken to His great Councell, neither doth He challenge to Himselfe any right of disposing of your Lives, Lands and Liberties, but will protect you and them according to the established Lawes: He only sayes, He is not bound to renounce his own understanding, or to contradict His own conscience for any Counsellors sake whatsoever. He must satisfy that before their desires, nor must that, which they call policy, give Law to that, which He knowes to be religion.

Tis granted in things visible, and certain, that judge which is a sole judge, and has competent power to see his own judgement executed, ought not to determine

mine against the light of nature, or evidence of fact.]

Sole judge, or not, alters not the case, neither is there any restraint only to visible and certain things; in the discharging of a trust, the conscience must be guided by a morall certainty, or high probability.

The sinne of Pilate was, that when he might have saved our Saviour from an unjust death, yet upon accusations contradictory in themselves; contrary to strange revelations from Heaven, he would suffer Innocence to fall, and passe sentence of death, meerly to satisfy a blood-thirsty multitude.]

The sinne of *Pilate* all confesse hainous, yet if examined according to his rule of justice, he must either condemne his own judgement, or absolve his. For first, concerning strange revelations to the contrary, all that I meet with is this, his wife sent unto him, laying; *have thou nothing to doe with that just man, for I have suffered many things this day in a dream because of him.* What was revelation to her, was but a single tradition to him, she was obliged to beleeve God speaking to her, he was not bound to believe a woman speaking to him: he might think she might be willing to deceive, out of naturall compassion strong in that sexe, or might be deceived her selfe, calling that inspira-
I
tion,

Mat. 27. 19

nion, which was fancy. That it was true *de facto*, makes nothing against him, for a Judge, he knew, was to be guided by proofes, he that will passe sentence according to what any shall pretend to have from Heaven, may well deserve to goe to Hell for it.

2^{ly} Concerning accurations contradictory in themselves, he saw that plainly and therefore professes their testimonies invalid, *I find no fault in* Ioh. 19. 6. *him.* Mat. 27. 18. But it may be objected, *he knew that for envy they had delivered him.* That indeed was his private opinion, which the Jewes perswade him was to be overruled by their authority, and unanimous consent. This therefore seems to be the case; *Pilate* thinks it not enough that all the chief Priests, and Elders of the people, cry out against him as a malefactor and enemy to the state, he requires some proofes, *Ioh. 18. 29.* they returned this answer, *if he were not a malefactor, we would not have delivered him unto thee,* *Populi salu,* the Common-wealth was in danger, nor did it stand with the honour of that Assembly to give more particular reasons. At length he is resolved to passe his assent, and yeelds to their votes upon these grounds:

His single judgement was not to be preferred before

fore all advice, then many eyes of all the choicest of the people see more then his, and many spy faults which he could not find; besides there was a *Maxime* and it was grounded upon *maxime* (and which the Author saies was never 'till this Parliament withstood, therefore then in full force) that a community can have no private ends so mislead it.

I shall only adde, the case can no way be varied, though they had not a joynt judiciall power, for if he thought him innocent, and knew he had such a right, that except he passed sentence against him he was not condemned, and ought not to suffer, it had been as high a fault to concurre with them in their injustice.

Not so; because if one Judge on the Bench dissent from three, or one Juror at the barre from eleven, they may submit to the major number, though perhaps lesse skilfull then themselves, without imputation of guilt.]

The Oath of the Jurors is this, as we find in *M^r Lamberd*, *Se virum aliquem innocentem hand condemnaturus, sententia absoluturos*. Laying their hands upon the holy Gospell, every man swears, he will not condemne the innocent, nor absolve the guilty. The words of their Oath now in use speak the same sense; They sweare that they will doe right betwixt party and party, according to

evidence given in: wherefore they ought to consult information by witnesses, not their fellowes votes. How his caluists will satisfy a mans conscience when he violates this Oath, I know not. 'Tis true, in many cases, there may be a legall submission, but then the law doth not require a personall act contrary to conscience, but provides for the preservation of the innocency of the dissenting parties, by making the act of the major part, have the force of the whole, according to that, *Refertur ad universos, quod publicè fit per maiorem partem.*

If so in Law, much more in State, where the very satisfying a multitude, some times in things not otherwise expedient, may prove not only expedient but necessary, for the settling of peace and ceasing of strife.] True, if in Law, not otherwise: a Governour must not displease God to please the people. The second thing must be ordered according to the Rulers prudence. For many times, granting an unreasonable request, doth not satisfy, but encrease their desires. And whereas the more he gives, he becomes the lesse able, so the more they receive, they become the more craving.

That the Militia and Magazine of Hull &c. should be intrusted into such hands as were in the peoples good esteeme

esteem, conscience and understanding could plead nothing against it.] Understanding and consequently conscience very much, if the King had more distrust of some, and more confidence in the fidelity of others.

If it could have been averred (as it could not, for the contrary was true) that this would have bred disturbance, and have been the occasion of greater danger.] Truly then he shall get the better, if he can impose upon our sense, and make the Kingdom believe contrary to what they see, and suffer under. What hath been the cause of these unhappy distractions, but as the taking the Kings Towne from him by force, and the illegall alteration of the *Militia*, upon pretence of apparent danger? Though for a time, they were afraid, where no feare was, (*quis illis sic timere permisit?*) yet after they have had so long a time to recover their understandings, and to consider with themselves, if the danger were apparent, it might in 10 many months be made evident, and they might know, whence to expect the blow, I dare now appeal to the weakest part of men their distrusts, and aske them, if they can now believe, there was any just ground for jealousies. It is not improbable, since they have raised a house without a foundation,

dation, it may fall upon the heads of the master builders.

Where the people by publique authority will seek any inconvenience to themselves, and the King is not so much interessed in it as themselves, 'tis more inconvenience and injustice to deny, then to grant it.]

More injustice to deny then grant, therefore it seemes, that injustice too. Into what streights must a King be brought by the mindes of the people! If they seek any inconvenience, injustice to deny it: O unheard of Maxims out of these new Politiques! that a King should be bound by Law to destroy his people, and kill them out of duty; that he doth not preserve their rights, except he doe them wrong. This *affabile odium* hath often had, but never deserved thanks. Can a man imagine, those people of whom *Juvenall* speaks,

Evertère domos tantas optantibus ipsis

Dii faciles,

if they had understood their own prayers, would have accused the Gods for denying them? *Charior est Regi populus, quam sibi.* How great are His deserts towards His People, that will not suffer them to be miserable, though they intreat him; though they provoke him to it; and can content him

himselfe with the conscience of merit, whilst his honour suffers under the envy of wrong doing!! Indeed this is the end of all government; for the people finding they were not fit to govern themselves, resolved to be ruled by those that were wiser, and so committed their safety to the trust of others. Now this were to reduce themselves to that first state, which their sufferings made them weary of, to place a Governour over them and to governe that Governour.

What blame is it then in Princes, when they will pretend reluctance of conscience and reason?

No man justifies pretended conscience, no man can condemne reall. But what grounds can malice have to cast this aspersions of pretence of conscience and reason? If we looke either on that unhappy misunderstanding of the people, who would not be undeceived by pretences, his actions must appeare unto them as cleare as the day; or on his owne necessities, his owne extreame wants, it cannot be. For certainly he that hath granted so much in this Parliament, and that in a short time, as put all his Royall Ancestors Acts of grace together, they fall much short of his, would not have denyed any thing which was reasonable, not any thing. (since his wants required supplies

plyes from them') but what should put him into farre worse condition then that of Poverty.

After a long and generall discourse of the originall of government, the various formes, and severall distempers, whil'st policy was yet imperfect, he returnes to the present matter.

The vertue of Representation hath been denyed to the Commons, and a severance has been made betwixt the parties chosen, and the parties choosing, and so that great priviledge of all priviledges, that unmoveable Basis of all honour, and power, whereby the House of Commons, claimes the entire right of all the Gentry and Commonalty of England, has been attempted to be shaken and disturbed.]

The sense of it is, a trust is committed to them, and they are to be guided according to conscience in the performance of it. Let it be so: but is not this cleerly the Kings case, who is entrusted certainly as highly as they? So that they will find the ready way to endanger their own rights, is to entrench upon the Kings. Yet there may be a mistake in the imputation of severance and denyall of representation to the Commons. For put the case; if a few men of a County present a Petition to the House against established lawes, and the settled Discipline of the Church; this is received, and

and thanks returned : if after, another Petition (modestly and discreetly expressing their desires, and withall due respects to the House, as to instance in that most excellent Petition of Kent) be presented, attested by men much more eminent then the former, whether we respect number, Gentry, meanes or reputation; and this in favour of present government, which they have found happy by long experience, and therefore have no reason to be so desirous of a change, of which they are not able to judge so well without tryall; this by no meanes is to be called a severance or denyall of representation, though I confesse, the Kingdome (apt to mistake) may easily be deceived, and learn to miscall it, because the Gentlemen were imprisoned who presented it.

Most of our late distempers and obstructions in Parliaments have proceeded from this : that the people, upon causelesse defamation, and unproved accusations, have been so prone to withdraw themselves from their representatives, and yet there can be nothing under Heaven, next to renouncing God, which can be more perfidious, and more pernicious in the people then this.]

Here we may see the strength of passion above reason. Certainly we never took the oath of Supremacy, nor of Allegiance unto them. Hence it

will evidently follow, that Treason against a Burgesse, is higher then that against the King.

This he grants as unquestionable, that the legislative power of this Kingdome, is partly in the King, and partly in the Kingdome, so that neither the King can make a generall binding Ordinance, or Law, without the Parliament, or the Parliament without the King.

This one truth, if constantly stood to, would have prevented our miseries, and if yet embraced, might restore the Kingdome to happynesse. But alas! it is soon recalled, as holding only in ordinary cases, but if the safety of the people be concerned, if it may prove dangerous, or inconvenient to them, when an extraordinary course may justly be taken.

This is it which hath so miserably rent this Kingdome and caused these sad divisions. First, the people are made believe they are in danger; and then a prevention of those dangers is promised. This must needs be very gratefull to them; so out of that naturall love they bear to themselves, they favour that side, which pretends to take care of their safety. His way of arguing is very plausible, and seemeth to carry more strength, because it worketh upon our understanding by our affection. The summe is this; in case of apparent and imminent danger the Peoples safety

is not to be neglected, they ought not to be exposed as a Prey to the enemy, who if he take them unprovided will destroy them all, therefore most fit they should be put into a posture of defence: now none so fit Judges of this apparent and imminent danger, as the two Houses; wherefore they to order this *Militia*. So that it must be in their power, to command Men, raise Horses, seize on all the Ammunition, send for what supplies of money they think necessary for repelling these dangers, else they are not sufficiently enabled for that great work, the peoples preservation. Here we are falne back again into (what we so much complained of) Arbitrary power, nor is the thing taken away, but placed in another body; all that we have gained is only this, we shall not be beaten by the same hand. Was not this the very case of Ship-money? upon supposal of a necessity, and the Kingdom being in danger, very fit to secure it and the people, this cannot be done without money, the danger will not allow the delay of asking the Subjects consent, and going the ordinary way of Law, therefore an extraordinary course then becomes legal, and very reasonable it is, the Subject should be content to part with some, rather than loose all. now who fitter

to judge of this necessity then the King, as being most fully informed by His advantage of intelligence from His Embassadors, Agents &c. of the designes of forraigne Princes and States.

To wind our selves out of this Labyrinth, we will goe on those grounds, on which they argued against Ship-mony, for as the Argument runnes parallell, so will the answer. This therefore was laid downe as a sure ground of reason, that it was better for the Kingdom, though it were in reall danger, *in arenâ consilium capere*, to shift for it selfe, as well as it was able, by a suddain defence, then that the Law should provide such a remedy, which would be so easily, so frequently abused upon every pretence of danger, to prevent such an evill, which could extreemly seldom, or almost never happen, for an Army and Navy could not be so secretly provided, but that we must have some intelligence of it. So in the case of the *Militia*, it is much better, that by being continued in the old legall way, it should hazard it selfe to such a possible danger, then that Law should provide such a remedy (for what probably will never happen) as being abused upon pretences, may every three years put the Kingdom in combustion. To repell danger any way
but

but by Law, is the greatest danger of all.

Let the world judge, whether the pronouncing S^r John Horham's act Treason be not contrary to the clearest beams of humane reason, and the strongest inclinations of nature: for every private man may defend himselfe by force, if assaulted, though by the force of a Magistrate, or his own father, and though he be not without all confidence by flight.]

He is strongly resolved upon the conclusion, that will bring it in upon such premises. S^r John Horham his assailing on the Kings Towne and Ammunition was it seems in his own defence; who assaulted him? did His Majesty drive him into Hull? what can he think of the Gunpowder-traitors, was their resistance a just defence? then certainly every Rebellion is a just warre. Indeed what is that thing which we call obedience, if a man may refuse to submit to Law in his own defence?

Here whole Nations being exposed to enmity and hazard, being utterly incapable of flight, must yeeld their throats and submit to assassins, if their King will not allow them defence.] There is great difference betwixt a Subjects defending himselfe, and offending his King. His fears are over-witty, if they will not permit him to think himselfe safe,

except helpe in one of the Kings forts for his
 Better security. *But* *if* *we* *are* *not* *lesse* *a* *prey* *to* *the* *same* *bloody*
hands, *as* *have* *done* *such* *diabolicall* *exploits* *in* *Ire-*
land *&c.* *if* *we* *may* *not* *take* *up* *armes* *for* *our* *owne* *safe-*
ty, *or* *if* *it* *be* *possible* *for* *us* *to* *take* *up* *armes,* *without*
some *Wages,* *or* *Ordinances* *to* *regulate* *the* *Militia*;
 Subjects upon invasion would not have wanted
 Commission to take up armes; till then they are
 safe enough by the benefit of the Law, which
 could not possibly have better provided for their
 safety, then by denying them a power to take
 armes as often as ambitious whollock men for
 their own ends shall perswade them they are in
 danger. For by this meanes, being easily deceived,
 whilst they endeavoured to avoyd saile; they
 would run themselves headlong into true pe-
 rills.

The King saies; the Parliament denies *&c.* to
 whether now in this uncertainty, is the Subject bound
 to adhere?]

It is possible; circumstances may afford us
 some light for our direction. We may consider,
 whether the Houses doe not barely say; and whe-
 ther His Majesty doth not descend so farre, as to
 give reasons for what He does; and to shew the
 Kingdom

Kingdom the ground of His actions; by particular citation of the Lawes, which justify them. We ought to agree whether, severing from Law, he is to be judged by the action, or by the authors that is, if the King should have done; what ever they did; and the Houses what ever He did, whether all would not then have been legal, because done by them. The King doth not desire to capivate any mans understanding to his authority; but is willing to make all the world the judge of his actions; neither is a blind obedience a part of any mans duty to the House. The best way to discern aright, will be to consult the rule, which is Law; and not measure the legality of an act by the doer. Some things are matters of fact, here we may be guided by sense, and judge as we see. As whether the King has seized on any thing, wherein the Subject hath a property? or whether the Subject hath not seized upon something wherein the King hath a property? whether the King hath raised waire against the Parliament, that is, whether His Guard was an Army, and whether Hull is now London.

We had a maxime and it was grounded upon nature, and ever till this Parliament withstood, that a community can have no private ends to mislead it,
and

and make it injurious to it selfe.] *But not said*
 True in a state where the collective body as-
 sembles: and the reason of it is evident; for though
 every man aime at his greatest particular interest,
 yet except it be agreeable to the interest of the
 major part it will never passe into an Act; and if
 it be advantageous for the most, it is to be este-
 med publique. Now what service this can doe
 the two Houses, I cannot see, because they are a
 representative body. If he please to consult *Li-
 vy* or *Tacitus*, he may find what most unworthy
 ends the Senate of Rome proposed to themselves,
 and be quickly satisfied in the falsehood of this
 Maxime, taken in his sense. The truth is he raises
 probabilities into demonstrations, and because it
 is not so likely, (it being a work of greater dif-
 ficulty) that four hundred should contrive things
 for their private interests, as that four should, he
 takes it for impossible. Whereas experience clear-
 ly confutes him; in other states we find nothing
 more common. That we in *England* have so fel-
 dome suffered under such corruptions, proceeds
 from causes which are peculiar to this govern-
 ment. It was a court for the most part, but of
 short continuance, so that they had not time to
 mould and fashion their aimes; and when called
 toge-

together againe, the body was much altered. But the chief reason, and that to which the Subject especially owes his security, is this, that the finall determination, is not in one, nor two houses, but the joynt consent of three Estates is necessary. So that nothing is likely to passe, but what is for the interest of the major part, and what is so, is publickly advantagious. It is more possible they may now prosecute private interests, since they challenge a power to themselves sufficient to advance their designs; which heretofore they never pretending to, could not hope to compass particular ends.

The King may safely leave His highest rights to Parliaments.] If this be all the motive, he may as safely keep them. Why did the Lawes entrust Him with them, if it were fitting for Him to make no use of them?

None knows better, or affects more the sweetnesse of this so well ballanced a Monarchy.] I believe they affect Monarchy, why then doth this Author endeavour to take it away, by denying the King a power of dissent, which our Ancestors inviolably preserved, as a most happy restraint of Aristocracy or Democracy?

It hath been often in the power of former Parlia-

ments to load that rule with greater fetters and cloggs, but they would not.] A very good argument, there is little reason now to doe it. After a commendation of the exact temper and due proportion between the three Estates, the many affecting Monarchy better then Aristocracy, and the Nobility preferring it as much beyond Democracy.

He exhorts us *not to seek to corrupt this purity of composition.]* Very good counsell: but which he overthrowes in the words immediatly following. *We must not conceive, that both Gentry and Nobility can combine against the King.* Therefore it will be fitting for the King to leave all to their disposall, who certainly can doe nothing, but what is fitting. In how few words hath he destroyed that constitution, which he told us was so perfect, it could admit of no change but for worse? But we could not stay here, if the Kings negative were once taken away, like decaying bodies, our health would dayly impaire. The next step must be, the Lords sitting in a personall capacity, no reason they should deny what the Kingdom hath voted to be necessary or convenient; either let them not speak at all, or let the greater part of Commons joyne with the lesser part of Peeres.

The right of all the Lords and Commons in this State is so great, that no change of government can be advantage to them, except they could each one attain an hereditary Crowne.] May they not attain as much as Malignant Counsellors are pretended to aime at, Honours, Offices, Wealth, Power, Commands?

Their power is meerly derivative, so that except we will conceive that both King and People will be consenting to the usurpation, nothing can be done.] Then it is confest, the King hath a right of dissenting. Except both King and People; here a power is given to the People collectively, beyond the Lords, Commons and King.

If the King be an affector of true Liberty, He has in Parliament a Power as extensive as ever the Roman Dictators was for the preventing of publike distresses.] The Dictator had absolute Authority; nor was he circumscribed in power, but in time only. There lay no appeale from him, neither was he questionable for any action after his government expired. Though the humor of that people could not endure the name of King, they had the same thing; for in imminent dangers, whether from forrain invasions, or intestine seditions, necessity of state forced them to submit to his Authority,

thority, which relieved them in their greatest extremities.

Hence we may make the truest judgement, what forme of government the wisest Romans esteemed most convenient, their actions, which proceeded from feare, were unfeigned interpreters of their thoughts. That they fell back still into their old rule, and were not as wise to prevent dangers by conserving that Authority, as they were to encounter them by erecting it, must be imputed to the inconstant temper of the people, who in times of peace were as proud and insolent, as when ruine threatned (which their wantonnesse pulled upon themselves) they were basely humble. Since then the Romans preferred even the unbounded power of one to a popular sway, wee have no reason to change the much more happy temper of this government, wherein Monarchy is so wisely ballanced, that as we are not exposed to the dangers which attend the rule of the many, so we may avoyd the inconveniences, which might probably flow from the Arbitrary power of one.

He hath met in the field with two contrary Armies of His own Subjects, and yet that Army, which He went to destroy, and advanced their colours against Him,

was

was more loyall then that which himselfe commanded.]
 Had he made a Conscience of unjust slander, or
 had he any sense of the honour of his Nation,
 these words had never fowled the paper.

*That which the King here calls conscience and rea-
 son, can be nothing else but meer private opinion.]*
 What other possible notion can any man have
 of conscience? is it not the light of reason infor-
 ming us in our duty? *If the Counsell of the Parli-
 ament were directly opposite to common understanding
 and good conscience, and the Counsell of the Court were
 evidently consonant therunto, there needed no such
 contestation.]* If the Counsell of the Court were di-
 rectly opposite to common understanding and
 good conscience, and the Counsell of the Parlia-
 ment were evidently consonant therunto, there
 would be no such contestation.

It is a very unfaithfull way of judging, to mea-
 sure the goodnesse of Counsell by the person ad-
 vising, not by the thing advised. His Majesty all-
 wayes examined what, not who, and hath given
 His Subjects a most certain pledge of His Royall
 affection, in passing so many good Acts, and was
 resolved to grant, as long as any thing could in
 reason be desired. After He hath fully satisfied the
 publique interest, even to the utmost extent, of

what most understanding and disingaged men wish for, he is not bound to undoe again in part, and so farre to comply with the interests of private men, as to place a power in some, by which they shall be able to hinder His good people from enjoying the full benefits of His Royall Grace, if such a consent appear to Him to doe it.

The following discourse keeps all in generalls (which easily deceive weaker apprehensions) and hath its strength from this ground, that it cannot reasonably be supposed the great & publique Councell of the Kingdome should not give the most faithfull advice.

Therefore Princes, if they may not be led by their owne opinions, rather then by the sacred and awfull Councells of whole Nations, unreasonably complain they are denyed liberty of Conscience, and raviſht out of their own understandings.] I appeal to any mans judgment, whether any thing can be urged for the authority of a Lay-Councell, that it ought to enforce a submission of judgment, & a performance of dutyes arising from trust agreeable thereto, which may not with at least equall advantages, be pressed for the same binding power in Councells Ecclesiasticall. To instance in that of *Trent*, if a Papist should, (as *Campion* doth) bragge of that

to him as the representative body of almost all the Western Church, wherein was a concourse of so many choise, able, eminent Divines, such as had addicted their whole times to the study of truth, and therefore in all probability could not be deceived themselves, & such as had conversed so long with Heaven and Heavenly things, they knew sufficiently how much it concerned them not to deceive others, and conclude it therefore unlawfull for any to pretend conscience (which is but private opinion) against so publique and unanimous determination. Notwithstanding these high probabilities, and (what will much more justify mens absolute obedience, and captivating their reasons, some plausible arguments for a divine assistance, and immediate directions in all their decisions, which the Houses will not pretend to;) yet it shall goe hard but he will find some answer (as easily he might) whereby to justify his liberty of dissenting in some things, which when he hath done, he may with very little alteration apply to civill Councells and be satisfied. Suppose it thus: though amongst probable Arguments, that drawn from authority of wise men carry with it greatest weight, yet it must give place to a greater reason.

reason. Now to every man belongs a judgment of discretion, which must decide for what concerns his particular duty. So in the Kings case: the Votes which carry in them the authority of both Houses, shall bear great sway, and if it be in things extreamly dubious, they may turn the scales of their side. But if greater reason seem to contradict them, his Majesty will not hoodwink His understanding, and blindly follow whither they please to lead him, He will walke by the greater Light; For example his Majesty perceiving how much His people may suffer under arbitrary power, is resolved never to make use of it, & thinks it lesse fitting any other should. But it is told him now the use of it will be for their good, by reason of apparent imminent dangers. His Majesty understands the bottome of plausible pretences, & knows to how great milchiefes a way would be opened, if it were sufficient upon such specious grounds to have a right to over-rule all known and certain Lawes.

Concerning the action at *Hull*, he confesses, *to take possession of the Kings town and shut the gates against Him is Treason, if circumstances doe not vary the nature of the act, as in this Case he pretends they doe. For the first thing to be lookt on is, that the King*
was

was meerly denyed entrance for that time, His generall right was not denyed.] If then a Subject take up Armes against his Sovereign in a temporary warr, it must not come within the compasse of Treason, and he may legally possesse himselfe of the King's forts, and maintaine them against Him, so He confesse he hath no right in them.

No defying language was given. If a man take away my purse, shall he be acquitted from felony because he did not give me ill language too? *No act of violence was used.* This he may say who hath pickt anothers pocket; but it is no sufficient plea against the Law.

But he used no violence, though the King for diverse houres together did stand within Musket shot, &c:] It is no argument of innocence that he had opportunity to be more highly guilty, and abstained.

The King used tearmes of defiance, and this makes the act meerly defensive, or rather passive.] If this were true, there was never any warr but defensive, for those, who by some great injustice offered, provoke a Nation to right it self, fight as well to maintain their lives, as what they unlawfully possesse. How this should administer to the King any ground to leave guards at York, many men wonder,

or that it should seem the same thing to the King, as if He had been pursued to the gates of York.]

Certainly it was a sufficient ground, not only to raise a guard for His safety, but an Army to punish that high indignity, and right His Honour: but out of tender care of His Peoples safety (least they should chance to suffer upon mistakes) He afforded him so long time of repentance, that the Kingdome might first be satisfied, and then his justice.

*If the Parliament have hereupon turned any of the Townes-men out of their Estates. His Majesty did not charge the two Houses; Sir John Hotham kept Him out, without any publike order from them. But if it had been done *de facto*, the same law would have justified this act, as well as the other. But since, not only the Country about, but the Inhabitants within the Town have suffered in their Estates, and liberties.*

Or if claimed any interest in it to themselves. So much the less reason to seize on it, if he cannot so much as pretend title to it. Or have disseized the King, utterly denying the right for the future. If any Law can be produced to justify taking away the Kings goods for a time, the case will be cleared. Or have made any other use of their possession but
meerly

merely to prevent civill warr. There is not any way more likely to create a Civill warr, then endeavour to prevent it by illegall courses. And to dis-furnish the King's seducers of Armes & Ammunition: therefore the most essentiall property of Treason, intention, must needs here be absent in this act.] The Law hath judged otherwise, in the case of the Earle of Essex, whose plea was, he intended the removall of evill Counsellors.

If the Parliament (the shutting the King out of Hall was not their act) be not virtually the whole Kingdome it selfe. The King excluded it is not ; If it be not the Supreme judicature, as well in matters of State, as matters of Law. Till new lawes are enacted, the Subject cannot justify any act, but what is warrantable by the old. If it be not the great Councell of the Kingdome as well as of the King, to whom it belongeth by the consent of all Nations to provide in all extraordinary cases, in equid detrimenti capiat Respublica, give the brand of Treason stick upon it. No provisions are allowed, but what are legall ; least the Remedy should prove the greatest disease. May the Parliament would have used this forcible means, unless petitioning would not have prevailed. It is no just excuse to take away a mans money, and say he did first desire him to deliver it.

Or if their grounds of jealousy were meerly vaine. It is against all equity to doe wrong, because there is a possibility of suffering it; no man can have a full security; and therefore we must arme our selves against uncertain feares, not by injuries, but a wary innocence. Or if the jealousy of a whole Kingdom can be counted vaine.] Too large an expression; much the greater part of the Kingdom apprehend no just grounds of jealousies.

Though the mindes of many were a long time unsettled, being daily disturbed by suggestions of plots at home, and invasions from abroad, yet if we duly weigh the businesse, such fears ought not to be valued. If forty severall men reporte the same thing, yet if upon examination thirty nine of them say they had it from the other man, this in Law makes but one witnesse; so the fears of many thousands, if grounded upon informations, and those informations come from very few, who can no way evidence the probability of such reports, they ought not to be regarded, they will vanish into nothing. *Or if they claime any such right of judging of dangers and preventing them without the King's consent as ordinary and perpetuall.* As often as they have a mind to make use of such a right, 'tis easy for them to call the

the case extraordinary, and pretend a publike danger. For my part I know not how they can ever be confuted, if not now. For certainly apparent dangers did never lesse appeare. It would more abundantly have satisfied me, if I had been frighted with secret plots, and conceal'd designs.

The King might have prevented the same repulse by sending a messenger before hand. That is, if He had not come to get in, He had not been shut out; if He would have stayed away, he would not have denyed Him entrance. Or by coming without any such considerable forces. Let His forces be great, he was not to give Law to his Prince. but neither is it likely he would have admitted Him then, for you confesse a little above, He offered to enter Hull with twenty horse only, unarmed.

The Scots in England took New-castle but by private authority, yet there were other qualifications in that Act sufficient to purge it of Treason.

The King and Parliament deserved so much respect from you, as not to have instanced so frequently in their Act; you might well let that passe in silence, which they have buried in an Act of oblivion.

He flourishes at large upon the example of
M 3 Richard

Richard the second (he means Edw. 2.) misled by Spencer. It doth not follow, because one King hearkned to evill counsell, therefore all must be denied the liberty to hearken to good.

Spencer's party was but of inconsiderable fortunes. He will get no advantage by putting mens estates into the Scales, and ballancing their reputations. At length yet there is some little hopes he may prove a convert, since he doth almost promise to suspend his judgement, till he may have full satisfaction from His Majesties Narration, which in due time will more fully informe him.

An Aristocracy in Parliament cannot be erected without some means, and what this means shall be, is yet to us altogether inscrutable. Certainly he is quicker sighted then not to perceive what is so obvious. Deny the King a negative, and the thing is done.

The power of Parliaments is but derivative and depending upon publique consent, and how publique consent should be gained for the erection of a new unlawful odious Tyranny amongst us, is not discernable. It is not thought this was the intent of those that entrusted them, but it may be the abuse of power, if the Kings authority be once swallowed up in theirs. For though their power depend upon a pub-

publique consent in the election, yet not so after they are met together. The necessities of the time made His Majesty grant, that this Parliament should not be dissolved without their consent; but they may now challenge it as their right, if the King be bound to confirme, what they vote necessary or expedient.

But it cannot be: and his reason is, the Kingdom would not obey them.] In truth a very probable thing: I beleve they would not be able to goe through in that new way. But yet they must needs have a great party; considering their severall relations, and the advantage they have, in advancing the interests, whether religious or civill, of some, which may be able to doe them service, and this would create division in the Kingdom.

His Majesty expresses His just indignation, that they (He imputes it not to the Houses, though this Author still involve them, but to the contrivers & penners of the Declaration) should dare to tell their King, *they may without want of modesty or duty depose him:* He returns answer, *this cannot be collected from those words,* That if they should make the highest presidents of other Parliaments their patterne, there would be no cause to complain of want of modesty and duty, *because*

it may justly be denied that free Parliaments did ever truly consent to the detroning of any King of England. What was there affirmed of Parliaments had none of his present restriction of Free in it. If the 1. of *Hen. 4.* were indeed not Free, why were Statutes cited out of it? The authors of those quotations must be presumed to accompt it so.

The King is offended at their franck expressions, disguised under the charge of a malignant party. The sense of his answer is this, they have no other way to cleere themselves: for there being faults somewhere, not to lay them upon others, were to take them upon themselves. His Majesty hath proposed a very good way which will fully satisfy the world in their innocency, and that is not alwaies to accuse, but sometimes to prove.

The King demands justice for tumults and high indignities offered, and complaines of a prohibition sent from the House of Commons into *Southwarke*, to hinder the proceſſe against a Riot according to Law. His answer is, *equall justice could not be obtained against the Court-Cavaleeres.* His Majesty never protected them from legall tryall; it was free for them to have proved what they could against them.

The King saies, it being granted by them, that their priviledges doe not extend to Treason, Felony, or breach of the Peace, so as to exempt the Members from all manner of tryall, yet if they be so priviledged in the method of their tryall, that the cause must first be brought before them, and their consent asked before you can proceed, then their Priviledges extend as farre in these, as in the most unquestioned cases; because no priviledge exempts them from all manner of tryall, the House being acquainted and leave given, He sayes nothing can take of this: it was fully intended the Members should have had a legall and speedy tryall; for His Majesty conceives it high injustice to clap men up upon a bare charge, and after they are in prison, forget there are such men in the world.

The Parliament does not deny the King a true real interest in anything beld by him, either in jure Coronæ, or in jure Personæ, but only affirms that in the same thing the State hath an interest Paramont in cases of publique extremity; by vertue of which it may justly seize and use the same for its own necessary preservation.] The King is a part of the state, and therefore the other part hath not any power warranted by Law, to doe what they think fit to His

N

pre-

prejudice, upon pretence of publique extremity. This is ship-money again; in every mans lands & goods, the State hath an intrest *Paramount* in cases of publique extremity, by vertue of which it may justly seize, and use the same for its own necessary preservation. Heres the difference, the head without the body was the State before; now it is the body without a head. The King hath graciously freed us from that inconvenience, and we hope He will not suffer us to be oppress'd with this. The prudence of our lawes hath provided against either; but were there a necessity we must fall into one, we ought in reason to choose the former, we are acquainted with that, and therefore could better digest it: It would be a great affliction to fall from such hopes, and what we lookt on as a remedy, to find that our disease: but especially it would be lesse burthen to our estates, to satisfy one, then five hundred.

But the King's things are still reserved for him in better hands, then he would have put them. Though this were true it were an ill president for the Subject, who must be bound to give up his meanes as oft as they conceive they could dispose it more wisely, as they yet keep them away from him for his good, so hereafter they may spend them against

gainst him for his advantage. Let what will be pretended; the Subject cannot be so stupid, as not to understand, these, who undertake to manage the *Paramount* interest of the State, may seize on any Subjects fortunes, by the same right they take the King's.

That there is an Arbitrary power in every State somewhere, 'tis true, 'tis necessary, and no inconvenience follows upon it.] If he mean by arbitrary, a legislative power, this is granted, yet not to a part, but the whole body. But this speaks not to the case; for still they give us a certain rule to live by. The old lawes are in force, till repealed, and when new are once enacted, we must conform our actions to those standing rules. He is to justify, there is such a *Paramount* Law, which shall make all our other lawes truly Oracles, that is, capable of contrary meanings. So that now a man may be justly punisht for doing such a thing, because he hath disobeyed the letter of the law; a week after he shall be justly punisht too, for not doing the same thing, because he hath disobeyed the equity of the Law. *Aristotle* tells us (and 'tis very wisely said) *μάλιστα ἐν πλεονέκει τοὺς ὀρθῶς καί μιν νόμους, ὅσα εἰδέχεται πάντα διορίσει αὐτοὺς, ἢ ὅτι ἐλάχιστα καταλείπει ὅτι τοῖς κρίνεται.* *Rhet. l. 1. c. 1.* Those lawes are

with greatest prudence established, which define most cases, and leave nothing, which possibly may be determined, to the breast of the judge. The reason of it is this; Lawes are made without any respects to persons; it cannot be foreseen what parties would be engaged; but Judges doe not allwayes abstract from these; they may be mislead by the relation of Kinsman, friend, Patron, or other interests. Now how fully may these corrupt ends be satisfied by this equitable construction of Law?

M^r Hooker does not say, *that the Anabaptists in Germany did deceive Parliaments with their hypocrisie.*] No man told you he did; we only learne thus much from that story of their foul injustice and cruelty, that upon proportionable principles, such mischiefs being then, may be again. For example, if a power be placed in a certain body of men, by which they are allowed to breake all inferiour lawes, if they think it is for the good of the people, &c: and if this body be backt by the greater part of the people, as having gained on their affections by fair promises of a perfect reformation, and that they shall at length enjoy the purity and simplicity of the Gospell; in this case may it not be a sufficient motive to take away mens estates,

estates, because they cannot confide in them? is it not just to take from enemies of the State the power of hurting it? 'Tis very obvious, that for those men, of whom they have no good opinion to have wealth may be a crime, to have honours treasonable.

As for the thirty Tyrants of Athens, we know they were not chosen by the people, as our Knights, Citizens, &c: This circumstance alters not the case, if after they are elected, they challenge as unquestionable and as irrevocable power. But the main intent of that instance was, to shew there may be a tyranny of many, and that much more miserable then that of one, in many respects. If the inordinate desires of one are hardly satisfied, how much more may we suffer under those of many? we cannot hope to weary them. If we must be slaves, better to have one master, then four hundred. Though the blowes were equall, that from a Royall hand would not smart so much; it wounds the very soul to be trampled on by equalls. The weight of present evils would lesse afflict, then the fear of future. There may be continuall supply of torment; new and hungry flies may succeed in the room of the old, and suck strongly, not regarding many have already been gutted. Neither can we

expect an end of these miseries, such a body is immortal, whereas the vices of a Prince are personall and dye with the man, we may be restored to happineffe by His successsor.

I will in brieffe relate the story of their reigne. They had got into their hands the power of declaring what was Law, and this by the consent of the people. In the beginning they call some men into Question, who were much hated by the Citty; and though the law could not take hold of them so farre, yet they past sentence of death. This was very plausible to most, who judged of this proceeding by the rule of their present affections, not looking so farre into the future, as to consider, what ill consequences this might produce; for by the same way innocent men might be cut off, if they were pleas'd to call them enemies of the State. After this they gave some part of publique authority to three thousand of the Cittizens, and disarmed all the rest, by this means (and the benefit of a *Militia* from *Sparta*) the Citty was wholly in their disposall. In a short time they had committed so many outrages, and such high injustice, that *Theramenes*, one of their own body, one of the thirty, professed his publique dislike of those proceedings. Then was he accused as a
Traitor

Traitor to them, and (though it was a priviledge of the three thousand, that none of them should suffer death by the sentence of the thirty, but according to accustomed processe and tryall) yet *Critias* wip't his name out of that number, and so reduced him to their tryall. *Theramenes* pleads for himselfe; they ought to look upon his as a common case; their names might as easily be blotted out, he advises them to be very wary in making such a president which might ruine them and their posterity. The issue was this: Particular men being over-awed by their feares, thought it their wisest way to hold their peace, since if they should speak in his behalfe, there was little hopes to redeeme him, but great probability to ruine themselves. So they chose rather to expose themselves to those future inconveniences, which possibly might not come upon them, then hazard a present danger. By this advantage the Tyrants prevailed and condemned him to dye.

The things taken from the King at Hull were Armes, which are of more danger then other kind of chattels.] By the same Law all that part of the Kingdom which is not confided in may be disarmed; nay why may not their mony be taken too, upon probable feare they may buy armes with it?

The

The Subject is in a miserable condition that is lyable to be undone as often as they please to be fearfull. It is so farre from excusing, it aggravates the fact, to take away the Kings Armes, that is the meanes whereby he may seize what ever else belongs unto His Majesty. The Law of this Kingdom hath only intrusted the Prince with Armes, so, that the Subject ought not to be arraied, trained, and mustered, but by His Commission.

But some determination must be supream, and therefore either the Kings power and trust must be guided by the discretion of the Parliament, or else the Parliament and all other Courts must be overruled by the Kings meer discretion.] No necessity of either; For in cases of this nature, which he confesses to be extraordinary, if the King and Parliament dissent, things must be at a stand, and the Subject must be obedient to the ordinary Law. The case of Ireland, as it is laid down by His Majesty, is unanswerable, and therefore he is forced to extreme shifts, being unable to say any thing materiall, and yet unwilling to hold his peace.

England and Ireland are one and the same Dominion, there is as true and intimate an union betwixt them, as betwixt England and Wales.] If this were so, Irish Barons would be English Peeres, and
English

English Peeres would have a right to vote in Irish Parliaments. Besides all lawes here enacted would stand in full force in Ireland, as they doe in the Kings dominion of Wales.

Though the major part should vote a thing, yet if it be disliked here, they would want authority to overrule the thing so voted. For the reason why the minor part in all suffrages subscribes to the major, is, that blood may not be shed, for in probability the major part will prevaile. This is a good reason for such a contract, that the minor part should subscribe, but after such agreement in States, justice laies an obligation on them so to doe: upon his grounds, if the lesser part in Parliament though never so few, can make it appear the greater part of the Kingdom are of their opinion, the major part ought to subscribe to the minor. Nay, if at any time the major part of Ireland joyning with the minor part of England, make a major of the whole, then the major part in our Parliament must sit downe. He takes no notice of the other case: suppose the malignant party should be a major part of both Houses, which His Majesty shewes how very probably it might have been, and were there a new election, it is not impossible, the Counties should send up the greater

O

part

part of such men as he calls malignant, would he think the King bound to consent to all such alterations, as they should propose?

Some scattering reasons are laid down concerning the *Militia*, which are but repetitions of what I have formerly answered.

A Faction is said to have prevailed upon a major part, by cunning, force, absence, or accident. He argues thus against it; *if by cunning, we must suppose the King's party in Parliament, has lost all their Law policy and subtilty.*] The reason why they are over-borne, may be this; not because they have lesse Law, but more Honesty, which will not permit them to maintain a good cause by ill meanes. We all know in how great stead those *pie fraudes, holy falshoods, and religious untruths* stood the Church of Rome, though there were such who laid down better reasons for the contrary opinions, yet truth prevailed slowly and with a few only, because the minds of most were craftily prepossessed with prejudice against it, begotten and nourished by fained stories. The dispute proceeded upon very unequall termes; for the Roman party gave themselves the liberty of taking all advantages, whereas their adversaries were forced to betray a good cause out of meer

meer ingenuity: they had none of their side who could lye. We ought to examine, whether this policy work not (at least in the beginning, till a discovery of their falshoods is made, and the people is undeceived) the same effects in a civill State; whether there are not such things, as *fraudes* (pretended to be) *reipublicæ salutaræ*, which have so strong an influence on the understandings of many, that they can submit to the votes of some, who have insinuated themselves into their affections, against the cleer reasons of others, whom they have been taught causelessly to suspect. How easy is it to deceive by giving in false informations of dangers from abroad? If some, more scrupulous then to be abused and led away by light reports, inquire after the hand that they may judge of the probability of the intelligence, according to the faith and credit of the relator, they must be satisfied with this, the informer desires his name should be concealed, *Pour b'eviter le tiltre d'espion.*

It cannot be by force, because they have no army visible.] A thing is said in Law to be done by force, not only when men actually suffer, if they make use of their liberty, and refuse to satisfy the passion and humor of some, but then also when

they have just grounds of feare, for this works on the mind, as strongly as the other on the body. And therefore Seneca tells us, stating this point of freedom, *vim & maiorem, & metum excipio, quibus adhibitis electio perit*; and Cicero, *nec quicquam equitatis tam infestum est, quam convocari homines, & armati*. It remains then we examine, whether the names of many gentlemen were not openly read in tumults; whether they were not posted, with directions to their particular lodgings; whether the way to the house were not so beset with clamorous multitudes, that they must passe thorough the midst of them, whilst they inform them, what is fit to be voted, and inquire after their names, and what side they take. The other two may be reduced to those; It is no wonder many stay away, since they must be absent even whilst they are there.

The Parliament requests of the King, that all great Officers of State, by whom publique affaires shall be transacted, may be chosen by approbation or nomination of the great Councell: could the King conceive this dishonourable for him &c. if all Parliaments were not taken as deadly enemies to Royalty?]

Is that the reason why each man preserves his own rights, because he takes all the rest of mankind

kind for deadly enemies? Can he with honour confesse himselfe unfit to manage that trust which the law hath committed to him? with equall reason they may challenge to themselves the nomination of all Bishops, Ministers, Sheriffs, Justices, &c: and dispose of all the Preferments in England.

The substance of the request seemes to be no more but this, that it would please the King to be advised by Parliaments, &c: What an affected mistake is this? He is ashamed to call it by the true name, and therefore styles that advice, which is properly command, if it be not in His power to reject their counsell, seem it never so unreasonable.

If the King choose such a man Treasurer or Keeper out of His own good liking only, or upon recommendation of such a Courtier, here he is divested of no power; but if it be upon the recommendation of the whole Kingdome in Parliament, who in all probability can judge better, and are more concerned, this is an emptying himselfe of Majesty and divesting himselfe of power.

If this will content them, they shall have as much power, as He grants to His Courtiers. Counsellors are not names of authority: they are the Princes eares, His eyes, (this relation is neare enough) He sees, and heares by them: yet they

must not passe their bounds; they must be like to the outward senses still, and make a bare representation; the office of reason is peculiar to him; to passe judgement thereon: Their information is not alwayes faithfull; he may consult reason, and, by the benefit of that, correct their error misrepresenting an object as crooked, which in it selfe is streight.

○ If not out of duty to their King, and a just sense of His honour, yet out of love to themselves, and a naturall care of their own safety, Subjects are bound in all legall wayes to expresse their dislike of this proposition. For they must expect to suffer all those evils which Faction can produce; and what happinesse can be hoped for in a Kingdome divided in it selfe? This were the ready way to kindle a fire in our own bowells, which would first break out in the Countyes electing, and divide the families of the gentry by irreconcilable hatred. For it cannot be imagined, but that power will bandy against power, and relations against relations, to put Sons or Kinsmen into that roade, which only leads unto preferment. Nor would the flames be quenched, but rather burn more fiercely even in the Houses, (as being pent in a narrow room) to which the insolency of some
attain-

attaining offices, (to which they are not equall) the shame and discontents of others repulſed, and the ambition of all would adde continuall fuelle. But the greateſt miſery of all is, were their corruptions never ſo high, we could have but ſlender hopes of redreſſe. Since the prevayling party (jealous of their own honour) would eaſily maintain the reputation of their choice, and perhaps it would be neceſſary for them to wink one at another. He that cannot think it probable, that out of private ends they ſhould ſo farre neglect juſtice and honour, let him only examine, whether in ſome Parliaments moſt known offendours, and active inſtruments in the peoples miſery, by ſtriking in with the prevailing ſide, have not been more ſafe then innocency could have made them.

There are ſeverall degrees of Prerogatives Royall, ſome whereof have greater power of protection, and leſſe of oppreſſion, and ſuch I am moſt ſtudiouſ of.]

Certainly it were to be deſired, we might enjoy the benefits of power, and not be ſubject to the poſſible abuſe thereof. But ſince this cannot be fully provided for, becauſe the ſame hand which is enabled to protect, may injure, the aimes of wiſeſt States have been, not ſo much to take away the power (becauſe then they ſhould be likely

likely to suffer under a weak Protector) as the will of oppression. The most probable means to effect this, is, (after a certain rule is agreed upon, and Lawes are established, to acquaint a governor, what he ought to do, in performance of that trust committed to him) so to order his interests, that to advance the peoples good shall be for the Princes advantage. Subjects will have great reason to promise to themselves a full happiness from the faithfull discharge of his Regall office, to which he is so strongly tyed by thole bonds of justice and profit. This the wildom of our Ancestors hath provided for in a high degree, and so temper'd this governement, that both King, and people, will be joyntly happy, or joyntly miserable. The severall goods of each forme are here united; we have great Democraticall advantages, and yet may avoyd the evils of a popular State, as long as Monarchy is kept up in its due height, and tumultuous insolent multitudes are not protected from a legall tryall: we have the good of Aristocracy, counsell of the best experienced (such as have studied nations and men) nor yet are we acquainted with the disease of it, faction amongst the Nobility. The Counsell of many is profitable, but the resolve of one is necessary. Since they
 looking

looking upon one another as equals would be very apt to quarrell; for when one contradicts, what another hath advised, the debate between them seems to be, which is the wiser man. Their discourses are like so many pleadings for honour, and we know what issue such suites would come to, when the thing in controversy is so highly valued, if there were not a judge to determine. And this is the benefit of Monarchy; which is so restrained by some power proper to the Houses it cannot degenerate into a tyranny. For how should this enter in? The old lawes (the security of our liberties) cannot be taken away till both Houses give consent: but grant an illegally violent Government should break in upon us, by what means could it be maintained? The King can have no supply of money, without the House of Commons, and without these sinewes his arm would not be strong enough to hold the reins, which should govern that provoked beast, the multitude. But He may take it by force, He cannot doe it in person, and it is not to be imagined, any considerable number of His people, will be active in their owne slavery. Besides what can he propose to himselfe? The people will give more then can be forced from them; so he looses by it, and then how

nauch doth he hazard against lesse then nothing?
 He hath least reason to break the lawes willfully,
 because he enjoys most by them; and experience
 having shew'd the benefit of observing them; and
 the ill of the contrary. He cannot but doubt, the
 People would fail of their duty, if he doe imper-
 formance obstruct, and cast of the bond of obedi-
 ence, if he doe that of Protection. These things
 duly weighed, renders that malice inexcusable;
 which hath long time exercised the people with
 most unreasonable feares, of lands, and liberty,
 and Religion being in danger; and this notwith-
 standing the King's many sacred Protestations to
 the contrary before God and all the world, and the
 whole course of his proceedings, which evidently
 tend to the securing all

Now I think it doth fully appeare, that the do-
 ctine of that Remonstrance, laid down by His
 Majesty, by way of recapitulation in seven posi-
 tions, is most justly offensive; being such as doth
 threaten ruine to both Church, and State, not per-
 mitting us, either to obey the King, or serve God
 as we ought.

That the *Parliament* has an absolute indis-
 putable power of declaring Law; so that all the
 right of King and People depends upon their plea-
 sure.

This

This power must rest in some, or in the King, or in some inferior Court, or else all suits must be endlesse, and it can nowhere rest more safely then in Parliament.]

The two Houses are not the Parliament. The subject of such power is the *inire* body, which consists of three estates. Some things are cleare and evident in Law, and want no declarer; if otherwise, all the Subjects right would lye in the brest of the Iudge. If the two Houses should Vote, younger Brothers ought to inherite by the Law of England, could this destroy the right of the first born?

2. That *Parliaments* are bound to no *Presi-*
denes.

Statutes are not binding to them, why then should Presidents? yet there is no obligation stronger then the Justice and Honour of a Parliament.]

This is an excellent ground to justify their innocence against all the world. For if they can make it appeare, they are not bound to keepe any law, no man can accuse them for the breach of any. What obligation can justice lay on them, who by a strange vertue of representation, are not capable of doing wrong. It will become justice, because they did it, when he hath declared what Ho-

now is, I shall be able to judge of that bond; it may perchance not stand with their honour, not to be able to prove men guilty, after they have once accused and imprisoned them. Statutes stand in full force to the two Houses, as being not voyd, till repealed by a joynt content of all the Estates.

3. That they are Parliaments, and may judge of publique necessity without the King, and dispose of any thing.

They may not desert the King, but being deserted by the King, when the King domoū in distresse, they may judge of that distresse and relieve it, and are to be accompted by the vertue of Representation, as the whole body of the State.

To dissent, after he hath granted what ever can in reason be desired; is not to desert the Houses. Upon pretence of distresse, to take illegall courses, is as if they should perswade us, we are not in health, and therefore they must breake our heads to forward our recovery. They represent the people to some purposes, not the King to any, and therefore are but a part of the State.

4. That no member of Parliament ought to be troubled for Treason &c. without leave.

This is intended of suspicion only, and when leave may seasonably be had, and when competent accusers

accusers appeare not in the impeachment.]

If by suspitions be meant only a bare not confiding in, this in justice cannot be sufficient ground. But upon Articles drawn and proofes in readinesse, which it is not fit to produce, while the accused partyes are at liberty, they may be medled with: for designes of this nature may brook no delay, because it might prove dangerous to the King's safety, or at least afford them liberty to escape. If the Houses being adjourned were not able to give consent, or upon too much confidence, should not be willing, hath not the Law provided in such a case for triall of Treason?

5. That the soveraigne power resides in both Houses of Parliament, the King having no negative voyce.

This power is not claimed as ordinary, nor to any purpose, but to save the Kingdom from ruine, and in case where the King is so seduced, as that he preferres dangerous men, and persecutes his loyall Subjects.]

Not as ordinary, that is they will only be King's as long as they please, and when they are weary of Reigning, the Kingdome shall be out of danger, and then it shall be his turne to command againe. To save it from ruine; the Law hath better

provided for the Peoples safety, by prohibiting all illegall executions of power, grounded upon what specious pretences loever, *And in case where the King is seduced*; that is, when he is not so wise as he should be, because he does not think as they doe, and refuses to satisfy the humors, and interests of some. *And prefers*; (this seems to be the true cause of all; preferments doe not goe the right way) *dangerous men*, i. e. such as desire he should govern according to the known Lawes of the Land. *And prosequutes his loyall Subjects*; i. e. is driven from London to Yorke, where He long time patiently expected the undeceiving of His People.

6. That leavying Forces against the personall commands of the King (though accompanied with his presence) is not leavying warre against the King: but warre against his Authority, though not Person, is warre against the King.

If this were not so, the Parliament seeing a seduced King ruining himselfe and the Kingdom, could not save both, but must stand and look on.

It is against common sense to fancy a King ruining Himselfe and Kingdom; He can neither be willing nor able. Upon a mad supposall, mad consequences will follow.

7. That according to some Parliaments, they may depose Kings.

'Tis denyed that any King was deposed by a free Parliament fairely elected.]

This is most certain, but takes not off those words upon which this Proposition is grounded.

These might well have been omitted, as being more fully handled in the book. But least he should complaine any thing was past over, I chose by a short review to be his remembrancer. The Propositions collected out of His Majesties Declarations, are but the brief of his *Observations*, to all which I have already spoken.

To conclude, if the people hearken to reason they must needs think, His Majesty will be more ready to prevent all real danger, then any Subject whatsoever, because He is sure to beare the greatest share in the losse. It alwaies was the master Policy amongst the wisest Legislators to grant to them the greatest power of government, to whom the preservation of the present state would be most beneficiall; because their private interests were the same with the publique, from which if they swarv'd by error or misinformation their own disadvantage did soon appeare.

FINIS.